



STATE BOARD OF EQUALIZATION
PROPERTY AND SPECIAL TAXES DEPARTMENT
450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0064
916 445-4982 • FAX 916 323-8765
www.boe.ca.gov

BETTY T. YEE
First District, San Francisco

BILL LEONARD
Second District, Ontario/Sacramento

MICHELLE STEEL
Third District, Rolling Hills Estates

JUDY CHU, Ph.D.
Fourth District, Los Angeles

JOHN CHIANG
State Controller

RAMON J. HIRSIG
Executive Director

No. 2008/046

August 6, 2008

TO COUNTY ASSESSORS AND INTERESTED PARTIES:

ASSESSORS' HANDBOOK SECTION 410,
ASSESSMENT OF NEWLY CONSTRUCTED PROPERTY

Board staff has initiated a project to develop a new section of the *Assessors' Handbook* relative to newly constructed property under the provisions of Article XIII A (Proposition 13). Enclosed is a draft of proposed Assessors' Handbook Section 410, *Assessment of Newly Constructed Property*. Topics covered in this handbook include valuation procedures for newly constructed property following a disaster or calamity, contaminated property after remediation, installation of seismic safety improvements, active solar energy systems, and others.

Interested parties are encouraged to participate in the drafting process for this new handbook. Please provide suggested language changes and/or proposed additions in the form of alternative text. Identify the page and line number for all changes. Proposed changes/additions will be accepted until November 7, 2008 and should be submitted to Ms. Sherrie Kinkle at sherrie.kinke@boe.ca.gov or sent to the above address.

After reviewing comments received from interested parties, the project will proceed as follows:

- Staff will distribute an agenda matrix summarizing proposed changes to the draft.
- Staff will meet with interests parties to discuss proposed changes to the draft.
- The Board's Property Tax Committee will hear any unresolved issues.

All documents regarding proposed Assessors' Handbook Section 410 will be posted on the Board's website at www.boe.ca.gov/proptaxes/otherprojects08.htm. If you have any questions or comments regarding this project, you may contact Ms. Kinkle at 916-322-2921.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:sk
Enclosures

ASSESSORS' HANDBOOK
SECTION 410

ASSESSMENT OF NEWLY CONSTRUCTED
PROPERTY

AUGUST 2008

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JOHN CHIANG, SACRAMENTO

RAMON J. HIRSIG, EXECUTIVE DIRECTOR

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FOREWORD

On June 6, 1978, the voters in California approved Proposition 13 which added article XIII A to the California Constitution. Article XIII A generally limits the amount of ad valorem tax to a maximum of 1 percent of the full cash value of the real property. For purposes of this limitation, the Constitution defines *full cash value* to mean a county assessor's valuation of real property as shown on the 1975-76 tax bill, or thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. As long as the property has the same owner, its assessed value generally cannot increase by more than 2 percent each year—even if the property's market value is increasing at a faster rate. As a result, the market value of many properties is higher than the assessed value.

This handbook section discusses the statutes and regulations, and the various statutory exclusions, that pertain to newly constructed real property.

Section 15606, subdivision (c), of the Government Code directs the State Board of Equalization to prescribe rules and regulations governing county assessors in the performance of their duties, and subdivision (f) provides that the Board shall issue instructions, such as those set forth in this handbook section. While regulations adopted by the State Board of Equalization are binding as law, Board-adopted handbook sections are advisory only. Nevertheless, courts have held that they may be properly considered as evidence in the adjudicatory process.¹

The citations and law references in this publication were current as of the writing of the handbook section. Board staff met with members of the California Assessors' Association, County Counsels' Association of California, and industry representatives to solicit input for this handbook section. The Board approved this handbook section on_____

David J. Gau
Deputy Director
Property and Special Taxes Department
California State Board of Equalization
[Date]

¹ *Coca-Cola Co. v. State Board of Equalization* (1945) 25 Cal.2d 918; *Prudential Ins. Co. of America v. City and County of San Francisco* (1987) 191 Cal.App.3d 1142; *Hunt-Wesson Foods, Inc. v. County of Alameda* (1974) 41 Cal.App.3d 163.

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CHAPTER 1: INTRODUCTION

The California Constitution requires that most locally assessed real property be valued for property tax purposes based on its market value on the date of acquisition. For newly constructed property, this means that a county assessor must establish a new assessed value as of the date construction is completed.

In most states, the date of completion of new construction is irrelevant to a property's assessment. That is, in most states, property is annually or periodically reassessed based on its current market value. Prior to 1978, California operated under such a market value system; the state's 58 county assessors periodically updated the assessed values of all properties to reflect their current market values.

In June 1978, the voters approved Proposition 13, which for most real property replaced the traditional market value assessment system with the acquisition value system that remains in place today. By adopting article XIII A of the California Constitution, Proposition 13 introduced several important changes:²

- For most locally assessed real property, assessments were rolled back to the 1975 market value levels. Properties that have not changed ownership or undergone new construction since 1975 are said to have a 1975 *base year value*. Otherwise, a property's base year value is determined as of the date of the most recent change in ownership or, for newly constructed property, the date of completion of the new construction.
- A property's base year value is adjusted each year to reflect inflation as measured by the California Consumer Price Index. An upward adjustment cannot exceed 2 percent. In general, these adjustments continue until the property changes ownership or undergoes new construction. The value that reflects the annual inflation indexing is known as the *adjusted, or factored base year value*. Each year, the adjusted base year value is the maximum assessable amount for the property for that year.
- Newly constructed property is assessed at its current market value as of its date of completion. New construction in progress on the lien date, January 1, is assessed at its market value on that date.
- If new construction occurs on only a portion of a property (for example, the addition of a bedroom), the newly constructed portion is assigned its own base year value; this value represents the county assessor's estimate of the market value added by the newly constructed portion. The remainder of the property, which did not undergo new construction, retains its existing base year value. Thus, a property assessment may be composed of multiple base year values based upon prior fractional ownership changes or partial new construction until such time as the entire property interest changes ownership.

² Revenue and Taxation Code sections 50 through 51.5, and section 110.1. All statutory section references are to the Revenue and Taxation Code unless otherwise designated.

- 1 • Property assessments are reviewed each year for a decline in value. If the current market
2 value of a property is below its adjusted base year value, the property is temporarily
3 reassessed to reflect the lower value. At some future year, when the property's current
4 market value exceeds its adjusted base year value, the adjusted base year value is restored
5 to the assessment roll.

CHAPTER 2: ASSESSMENT OF NEW CONSTRUCTION

LEGAL FRAMEWORK

Section 2 of article XIII A of the California Constitution (Proposition 13) provides that the full cash value of real property includes the appraised value of that property when *newly constructed*:

The full cash value means the county assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment.

The full value of new construction is that portion of the increase in the value of the total property upon completion that is directly attributable to the new construction. The terms *newly constructed* and *new construction* are defined as:³

(1) Any addition to real property, whether land or improvements (including fixtures), since the last lien date; and

(2) Any alteration of land or of any improvement (including fixtures) since the last lien date, that constitutes a major rehabilitation or which converts the property to a different use.

Any rehabilitation, renovation, or modernization which converts an improvement or fixture to the substantial equivalent of a new improvement or fixture is a major rehabilitation of such improvement or fixture.⁴

Property Tax Rule 463⁵ interprets the definitions of *newly constructed* and *new construction*. Rule 463(b) provides that newly constructed or new construction include:

- Any substantial addition to land or improvements (including fixtures) such as adding land fill, retaining walls, curbs, gutters, or sewers to land, or constructing a new building or swimming pool, or changing an existing improvement so as to add horizontally or vertically to its square footage or to incorporate an additional fixture.
- Any substantial physical alteration of land which constitutes a major rehabilitation of the land or results in a change in the way the property is used. When an alteration is substantial enough to require reappraisal, only the value of the alteration will be added to the base year value of the pre-existing land. Increases in land value caused by appreciation or a zoning change rather than new construction will not be enrolled.

³ Section 70(a). For ease of reference in this manual, we may refer to subdivisions as, for example, section 70(a).

⁴ Section 70(b).

⁵ All references to Rules or Property Tax Rules are section references to title 18, Public Revenues, California Code of Regulations.

- Any physical alteration that converts an improvement (or any portion of it) to the substantial equivalent of a new improvement or changes the way in which the improvement is used. Only the value, which is not necessarily the same as the cost, of the alteration should be added to the adjusted base year value of the pre-existing improvement.

Rule 463(b) expressly excludes from the definition of new construction alterations performed for the purpose of normal maintenance and repair, such as routine annual preparation of agricultural land, interior or exterior painting, replacement of roof coverings, or the addition of aluminum siding.

Finally, Rule 463 provides that newly constructed property is to be assessed at its market value as of the date of completion and defines the date of completion. New construction in progress on the lien date is appraised at its market value on that date and on each succeeding lien date until the date of completion.

DISCUSSION OF TERMS

Section 70 and Rule 463 use various terms to explain the meaning of new construction. The meanings of some of these terms are self-explanatory; for others, the meaning is less obvious.

ADDITION

An *addition* is the act or process of adding. Additions are made to land and improvements, including fixtures. Assessable additions include, but are not limited to:

1. Horizontal or vertical additions to existing improvements, such as:
 - A family room
 - An office mezzanine to a warehouse
2. Installation of new minor improvements or yard improvements to improved properties, such as:
 - A swimming pool or patio
 - Additional paving or fencing on an industrial facility

Additions do not change the base year or base year value of the pre-existing portion of the property. A new base year and base year value is determined for the addition only.

ALTERATION

An *alteration* is the act or process of altering; a modification or change. An alteration qualifies as new construction when it:

1. Rehabilitates real property (or a portion of it) to the point that it is like new; or

2. Converts the property (or a portion of it) to a different use.

The value added by the physical alteration is assessable, but the value attributable to the change in use is not assessable.⁶ The appraiser's task is to estimate the value added by the alteration. Examples include installation of:

- Air conditioning added to an existing forced air heating system
- A new fixture-structure item, such as a service station sign

NORMAL MAINTENANCE AND REPAIR

Normal maintenance is the action of continuing, carrying on, preserving, or retaining real property or fixtures in proper condition. Maintenance performed on real property is normal when it is regular, standard, and typical. Normal maintenance keeps a property in condition to perform efficiently the service for which it is intended and ensures that a property will experience an economic life of typical duration. Normal maintenance is not considered new construction.

The installation of new items that replace old items but provide a similar function is not considered new construction. Examples of normal maintenance and repair that do not constitute new construction are:

- Installation of a new shake roof that replaces an existing composition shingle roof
- Routine painting and maintenance
- Replacements or repairs that are periodically required during the life of the improvement, such as replacement of rain gutters

REMODELING

Remodeling is changing the plan, form, or style of a structure to correct functional or economic deficiencies. In remodeling, property is removed and other property of like utility is substituted. In some cases, remodeling may constitute new construction. If this is the case, the old property's factored base year value should be removed, and the new property should be enrolled at its current fair market value as of the date of replacement.

MODERNIZATION

Modernization means taking corrective measures to bring a property into conformity with changes in style (whether exterior or interior), or additions necessary to meet standards of current demand. Modernization normally involves replacing part of a structure or fixture with modern replacements of the same kind. For property tax purposes, modernization implies curing functional obsolescence and physical deterioration to the degree that the structure or fixture is substantially equivalent to new. When this is achieved, modernization qualifies as new construction.

⁶ Rule 463(b)(2).

1 REHABILITATION

2 *Rehabilitation* is the restoration of a property to satisfactory condition without changing the plan,
3 form, or style of the property. It involves curing physical deterioration. If rehabilitation makes a
4 structure or fixture substantially equivalent to new, it qualifies as new construction. For example,
5 if a structure has been allowed to deteriorate to a point that it is nearly uninhabitable due to lack
6 of normal maintenance and repair, the rehabilitation of that structure to cure all of the physical
7 deterioration would be considered new construction.

8 REPLACEMENT

9 *Replacement* is substituting an item that is fundamentally the same type or utility for an item that
10 is exhausted, worn out, or inadequate. Replacements made as normal maintenance and which do
11 not make the entire improvement substantially equivalent to new are not considered new
12 construction. However, when replacements are as extensive and extreme as to make an
13 improvement *like new*, then the work is considered new construction.

14 RENOVATION

15 *Renovation* is making a property into *like new* condition. Thus, in a literal sense, the renovation
16 of an improvement means the improvement has been made substantially equivalent to new and is
17 considered new construction.

18 SUBSTANTIALLY EQUIVALENT TO NEW

19 New construction is assessable when that new construction has converted a fixture or any other
20 improvement (or a portion) to a state *substantially equivalent to new*.⁷ For example, a very old
21 house is stripped to its studs and rebuilt from the foundation up. The restoration is such that the
22 old house has been converted into a state comparable to that of a new house. The value added by
23 such a conversion would be assessable as new construction.

24 Whether or not new construction transforms an improvement or fixture (or a portion) into a state
25 that is substantially equivalent to new (into a state where its utility is comparable to new) is a
26 factual determination that must be made on a case-by-case basis.

27 Property owners may convert their properties to substantially equivalent to new by either adding
28 square footage to an existing structure, or by altering the existing structure to the point that it no
29 longer resembles what was originally built. In some situations, property owners use both
30 additions and alterations to convert structures into substantially equivalent to new.

31 CHANGE IN USE

32 Physical alterations that lead to a change in the way property is used qualify as new
33 construction.⁸ While the value added by the physical alteration is assessable, the value
34 attributable to the change in use is not. (See *Alterations* above for a further discussion of this
35 issue.)

⁷ Rule 463(b)(3).

⁸ Section 70(a)(2); Rule 463(b)(2).

PORTION OF AN IMPROVEMENT

New construction is any physical alteration of an improvement which converts the improvement, *or any portion of it*, to substantially equivalent to new or changes the way in which the portion of the improvement that was altered is used.⁹ The value of the alteration, not necessarily its cost, will be added to the factored based year value of the pre-existing structure.

In the context of newly constructed property, the term *portion* means a component of land or of an improvement that is easily recognized. It is a part of an individual structure designed for independent and separate use within that improvement.

Example 2-1

A property owner converts a 500-square foot garage into living space. The original residence had 1,500 square feet of living space with a base year value of \$50,000 (land \$15,000 and improvements \$35,000). An appraiser would consider the following data when appraising the new construction:

- Comparable homes with unconverted garages were selling for \$450,000 (land \$200,000 and improvements \$250,000).
- Homes with converted garages were selling for \$470,000 (land \$200,000 and improvements \$270,000).

All else being equal, the value attributable to the garage conversion is indicated by the difference between the market values of the homes with converted garages and the market values of the homes without converted garages (\$20,000).

Value enrolled is calculated as follows:

Land	\$15,000 x 1.72451 (CPI factor)	\$25,868
Improvements	\$35,000 x 1.72451 (CPI factor)	+ <u>60,358</u>
Factored base year value		\$86,226
Plus value of new construction		+ <u>\$20,000</u>
Enrolled value		<u>\$106,226</u>

Correct identification of a newly constructed portion of an improvement, identification of a portion of an improvement that is substantially equivalent to new, and estimating the market value of that portion is subject to appraisal judgment.

PROPERTY USE TYPES

Property uses fall under five general categories or types:

- Agricultural

⁹ Rule 463(b)(3).

- 1 • Residential
- 2 • Commercial
- 3 • Industrial
- 4 • Recreational

5 Any physical alteration of land or improvements that leads to a change from one use type to
 6 another qualifies as new construction. Within each general use type there are sub-uses. Physical
 7 alterations that lead to a change from one sub-use to another also qualify as new construction.

8 Examples of changes in use include:

- 9 • Site development of rural land for the purpose of establishing a residential subdivision;
- 10 • Altering rolling, dry grazing land to level irrigated crop land; and
- 11 • Preparing a vacant commercial lot for use as a parking facility.¹⁰

12 An alteration that does not lead to a change in use may nevertheless qualify as new construction.
 13 For example, a change from a peach orchard to a prune orchard would result in new construction,
 14 not because of the change in use, but because one improvement is removed and another
 15 improvement (substantially equivalent to new) is added.

16 In all case, only the value added by the physical alteration may be assessed. Any increase in
 17 value attributable to the change in the property's use must be excluded from the value of the new
 18 construction.

19 The following table lists general use types and sub-uses within each of the five general types. It
 20 is not intended as an all-inclusive list, but rather as an illustration.

¹⁰ Rule 463(b)(2).

TABLE 2-1
LIST OF USE-TYPES

Use-Type	Sub-Uses	
<i>Agricultural</i>	Undeveloped Land Dry Farm Orchards and Groves Kiwis Jojoba Beans	Irrigated Row and Field Crops Grapevines Asparagus Bush Berries
<i>Residential</i>	Single-Family Multi-Family	Condominium Time-Share
<i>Industrial</i>	Mining or Extraction Manufacturing	Processing Warehousing
<i>Commercial</i>	Office Buildings Financial Buildings Retail Stores Professional Buildings Food Services	Cocktail Lounges Food Sales Automotive Sales Service and Repair Shops
<i>Recreational</i>	Courts Clubhouses Ranges Tracks	Swimming Pools Rinks Fields

Example 2-2

The owner of a Victorian single-family residence converts the property to a duplex by adding a kitchen to the second floor and an exterior staircase for separate access. An interior stairway is removed.

This is an example of a physical alteration leading to a change in use. Value attributable to the new construction can be added to the property's value. However, any value attributable to normal appreciation that might occur between the base year and the completion of the alteration, or from the conversion from single-family use to multi-family use, cannot be added.

COMMON TYPES OF NEW CONSTRUCTION

While not all additions and alterations qualify as new construction under section 70, the following table provides examples of common situations that usually do qualify as new construction:

TABLE 2-2
COMMON TYPES OF NEW CONSTRUCTION

<i>Improvements</i>	<ul style="list-style-type: none"> • New residential, commercial, or industrial buildings and related structures • Square footage added to existing structures, whether vertical or horizontal • Completing previously unfinished improvement areas such as basements, attics, and garages • In-ground swimming pools and spas • Porches and patios • Off-site and on-site infrastructure improvements such as curbs, gutters, utilities, and sewers • Converting a warehouse into a restaurant or office space • Incorporation of additional improvements such as new interior partitions, walls, ceilings, lighting, restrooms, doors, floor coverings, windows, and wall coverings
<i>Land</i>	<ul style="list-style-type: none"> • Retaining walls • Land grading • Landfill • Altering vacant land for the purpose of establishing a residential, commercial, or industrial development • Developing range, grazing, or rolling land to irrigated row crops, trees, or vines • Developing vacant land for use as a parking facility • Ripping, tilling, leaching, or adding soil amendments to improve the productive capability of agricultural land

REMOVED OR RELOCATED IMPROVEMENTS

In general, the relocation of a structure from one parcel to another is new construction. Whenever a structure is removed from land, for whatever length of time or purpose, it becomes personal property. Once the structure becomes personal property, its taxable value becomes its current market value on each lien date until it is re-attached. Upon re-attachment to land, the structure is considered newly constructed, and a new base year and base year value for the relocated structure should be established as of the date of completion. The value of the structure is removed from the original site.

Example 2-3

A taxpayer owns parcels A and B. Parcel A is improved with a small house while parcel B is vacant. The taxpayer prefers the view from vacant parcel B, but he likes the house on parcel A. Therefore, the taxpayer moves his house from parcel A to parcel B.

The relocation of the house is considered new construction for both parcels A and B. The base year value of the house must be removed from parcel A, and the current market value of the house must be enrolled as the new base year value for the house on parcel B. The land base year values for parcels A and B will remain as before the new construction (moving of the house).

An exception occurs where an improvement is relocated from one site to another within the same appraisal unit. In that event, the relocation should not result in assessable new construction.

Example 2-4

A taxpayer owns a Victorian home located on a 12-acre lot. A freeway is constructed that passes within 100 feet of his home. The taxpayer moves his home to the back of his 12-acre lot in order to get away from the freeway noise. He constructs a new foundation and attaches the home to the new foundation. He demolishes the old foundation and returns that portion of the lot to its original form (bare land).

The taxpayer's relocation of his home to the back of the same property would not be considered new construction. Although the removal of a structure from land is considered actual physical new construction¹¹ and could result in the establishment of a new base year value, in this case the home stayed on the same property. Generally, the value of the new foundation is considered a replacement of the old foundation.

COMMENCEMENT OF NEW CONSTRUCTION

Identifying the commencement of construction is important in determining the percentage of construction in progress on a lien date. *Commencement of construction* is defined as the performance of physical activities on the property which result in visible changes.¹² These changes, which should be visible to any person inspecting the site, must be recognizable as the initial steps for the preparation of land or the installation of improvements or fixtures. Such activities include:

- Clearing and grading land;
- Laying out foundations;
- Excavating foundation footing;
- Fencing a site; or

¹¹ Section 75.10(b).

¹² Rule 463.500(c)(3).

- 1 • Installing temporary structures.
- 2 Such activities would also include severing of existing improvements or fixtures.
- 3 Commencement of construction does not include preparatory activities such as obtaining
- 4 architect services, preparing plans and specifications, obtaining building permits, filing
- 5 subdivision maps, or preparing environmental impact reports.
- 6 Commencement of construction must be determined solely on the basis of activities which are
- 7 apparent on the property undergoing new construction.
- 8 • Where a property has been subdivided into separate lots, the commencement of
- 9 construction is determined on the basis of the activities occurring on each separate lot.
- 10 • Where several parcels are adjacent (including when property has been subdivided into
- 11 separate lots) and will be used as a single unit by the builder for the construction project,
- 12 the commencement of construction is determined on the basis of the activities which occur
- 13 on any of the parcels comprising the unit.
- 14 • Where the property has been subdivided into separate lots, and several or all of those lots
- 15 are to be used as a single unit by the builder for the construction project, the
- 16 commencement of construction is determined on the basis of the activities which occur on
- 17 any of the parcels comprising the unit.

18 **DATE OF COMPLETION OF NEW CONSTRUCTION**

19 Rule 463.500(b) provides that the *date of completion of new construction* is:

20 (b) The date of completion of new construction resulting from actual physical new
 21 construction on the site shall be the earliest of either the date upon which the new
 22 construction is available for use by the owner or, if all of the conditions of
 23 paragraph (b)(1) are satisfied, the date the property is occupied or used by the
 24 owner, or with the owner's consent, after the owner has provided a notice in
 25 accordance with paragraph (b)(1).

26 (1) The date of completion of new construction resulting from actual physical new
 27 construction shall not be the date upon which it is available for use if the owner
 28 does not intend to occupy or use the property and the owner notifies the assessor
 29 in writing prior to, or within 30 days after, the date of commencement of
 30 construction that he/she/it does not intend to occupy or use the identified property
 31 or a specified portion thereof.

32 (2) The date of completion of new construction resulting from actual physical new
 33 construction shall be conclusively presumed to be the date upon which the new
 34 construction is available for use by the owner if the assessor fails to receive notice
 35 as provided in paragraph (b)(1).

Rule 463.500(c) defines *available for use* as:

(4) ...the property, or a portion of it, that has been inspected and approved for occupancy by the appropriate governmental official or, in the absence of such inspection and approval procedures, when the prime contractor has fulfilled all of the contractual obligations....

New construction is not considered *available for use* if it cannot be functionally used or occupied when the new construction is completed. New construction is not available for use until the date that all legal and/or physical impediments to functional use or occupancy are removed.

The final inspection date by city or county officials or the construction contract may be used to determine whether the property (or a portion of it) is available for use. When inspection and approval procedures are nonexistent (or they exist but are not performed) and a prime contractor is not involved, the newly constructed property is available for use when outward appearances clearly indicate it is available for the purpose intended.

The estimate of the date of completion for purposes of assigning a base year value will depend on whether the project is completed in stages or as a single-phase project. For multiple-phase projects, each phase can be assigned a different base year and should be valued as of the date it is available for use.¹³ A presumption of completion may be attached to a building permit final approval or notice of occupancy issued by a local agency.

Example 2-5

A taxpayer spent five months renovating an old restaurant into a trendy bistro. His plan was to re-open the restaurant in September. He believed that his restaurant was ready for use as he had completed all construction and complied with all permit requests from the different county and city agencies, except for the county health department. The taxpayer attempted to obtain a final building inspection from the city's building inspector, but was informed that without the county health department's final approval, the building permit could not be finalized.

Even though the date the new construction was work was finished was in September, the property was not available for occupancy pending final approval from the county health department and the city's building department. The new construction was not completed for property tax purposes, and the property would not be reassessed until final approval is obtained from the city and county inspectors.

DISCOVERY OF NEW CONSTRUCTION

Generally, county assessors discover new construction through a combination of sources, including:

¹³ Rule 463.500(c)(4).

- Building permits provided by county or city agencies;
- Information furnished on Business Property Statements; or
- Documents evidencing required governmental inspections or approvals.

BUILDING PERMITS

County and city building departments are required to furnish county assessors with copies of building permits as soon as possible after they are issued.¹⁴ This procedure is perhaps a county assessor's most effective method of discovering new construction.

Additionally, cities and counties must provide a county assessor with a copy of any certificate of occupancy or other document showing the date of completion of new construction within their jurisdiction.¹⁵ Copies of such documents must be provided to the county assessor within 30 days of the date of issuance.

When a taxpayer files with the city or county an approved set of building plans, the taxpayer must also file a scale copy of the floor plans and exterior dimensions of the building with the county assessor.¹⁶ The scale copy must be in sufficient detail to allow the county assessor to determine the square footage of the building and, in the case of a residential building, the intended use of each room. The city or county must transmit the designated copy to the county assessor as soon as possible after the final plans are approved.

These provisions create valuable sources of information that allow for the timely discovery and assessment of most new construction.

BUSINESS PERSONAL PROPERTY STATEMENTS

The business property division of a county assessor's office will often discover information about recent changes to land or improvements. That information, which may come from Business Property Statements, audit reports, or other sources, should be reported to the real property division for appropriate action. Coordination between the real property appraisers and the business property auditor-appraisers is an important factor in the discovery of newly constructed properties.

OWNER-BUILDER AND OWNER-DEVELOPER STATEMENTS

An owner-builder or owner-developer of new construction that is sold to a third party must provide the county assessor with all information and records regarding that property.¹⁷ The property owner must respond within 45 days of receipt of a written request by the county assessor. The county assessor may request information regarding the purchase price and the price paid for upgrades, additions, or for any other supplemental work performed by the owner-builder or owner-developer.

¹⁴ Section 72(a).

¹⁵ Section 72(b).

¹⁶ Section 72(c).

¹⁷ Section 441(d)(2).

These provisions in the law address situations where builders and buyers of new homes contract for upgrades or additions outside of their purchase agreements. Some home buyers are unaware that the cost of such additional work must be reported to the county assessor on the Change in Ownership Statement as part of the purchase price of the home.

Example 2-6

A home buyer who purchases a home for \$450,000 selects an additional \$40,000 in upgrades in kitchen and flooring options. The home buyer decides to finance the extra improvements through a secondary loan.

These additions may not get reported on the Change in Ownership Statement and may not be included in the final purchase price reported to the county assessor.

HEALTH DEPARTMENT

County health departments are required to inspect real property when property is put to certain uses, such as restaurants and medical offices. By obtaining copies of use permits from the county health department, a county assessor may discover new construction resulting from a change in use.

AERIAL PHOTOGRAPHS AND SATELLITE IMAGERY

A series of aerial photographs, reviewed over time, can provide an important resource for the discovery and location of new construction. By comparing older photographs to newer photographs, county assessors can determine the areas where new construction has taken place. By comparing that information with appraisal records, it is possible to detect new construction that has escaped assessment.

FIELD INSPECTION

While conducting field work, both real property appraisers and business property auditor-appraisers should be alert for new construction. Field inspections are the most accurate method of discovering new construction. For some uses, such as property being claimed as exempt under the welfare exemption provisions, field inspections are mandatory.¹⁸

NEWS MEDIA REPORTS

Trade journal, newspaper, radio, and television reports can also provide sources of information to aid in the discovery of new construction. News media reports may alert county assessors to construction projects such as new industrial facilities, new shopping malls, changes in use, and demolition of existing improvements. Examples of new construction discovery through the media include advertisements for new amusement park rides, grand opening announcements of new port facilities, reports of building demolition, and ground-breaking ceremonies.

¹⁸ Assessors' Handbook Section 267, *Welfare, Church, and Religious Exemptions*, October 2004, p. 103.

CHAPTER 3: VALUATION PROCEDURES

The valuation of newly constructed property is governed by the same rules and principles that govern the valuation of all other taxable property. That is, the appraiser follows a standardized seven-step appraisal process and uses one or more of the three traditional approaches to value.¹⁹ In this chapter, we focus on several issues of special importance to the valuation of newly constructed property.

NEW CONSTRUCTION AND THE APPROACHES TO VALUE

COMPARATIVE SALES APPROACH

The comparative sales approach to value is preferred when adequate market data are available:

When reliable market data are available with respect to a given real property, the preferred method of valuation is by reference to sales prices....²⁰

To value newly constructed property by this method, the property is appraised with and without the new construction as of the date of completion, using the selling prices of comparable properties. The difference between the appraised values is an indicator of the value of the new construction.

A variation of this method is used when the new construction consists of an addition to an existing structure. The value of an addition may sometimes be derived from sales of similar properties without the need to produce two different appraisals. By subtracting the land value from the selling prices of comparable properties, an appraiser can estimate the value attributable to each square foot of improvement area.

Example 3-1

A taxpayer adds a 200 square-foot addition to his 2,000 square-foot home. The property has a base year value of \$250,000, of which \$82,000 is allocated to land and \$168,000 is allocated to improvements.

The following information is available for comparable properties:

- Homes of similar size and characteristics in the same subdivision as the subject property (without the addition) have been selling for \$600,000, of which \$180,000 is allocated to land and \$420,000 to improvements.
- Homes of similar size and characteristics in the area which have a 300 square-foot addition have been selling for \$650,000.

Using the comparative sales approach, the current market value of the addition for the subject property would be calculated as follows:

¹⁹ Assessors' Handbook Section 501, *Basic Appraisal*, Chapter 5.

²⁰ Property Tax Rule 4.

The difference between the sales prices for homes with additions and homes without additions is:

$$\$650,000 - 600,000 = \$50,000$$

The market value per square foot of the 300 square-foot additions for the comparable properties is:

$$\$50,000 \div 300 \text{ square feet} = \$167 \text{ per square foot}$$

The market value for the 200 square-foot addition for the subject property is:

$$200 \text{ square feet} \times \$167 = \underline{\$33,400}$$

Two elements of the comparable sales approach may affect its validity when appraising new construction:

1. The likely scarcity of comparable sales involving properties with similar new construction projects; and,
2. An estimate of value derived from the comparable sales approach captures all aspects of a change in value, some of which may be attributable to non-assessable construction.

For example, the construction activity may incorporate elements of normal maintenance, or, in the case of an addition, may reduce the functional obsolescence of the property as a whole. These are increments of value that should not be included in the assessment of new construction.

INCOME APPROACH

When new construction involves income-producing properties, the value of the new construction may be estimated using the income approach. Using current market-derived rates, the appraiser may capitalize the difference in the subject property's economic rent with and without the new construction to yield an estimate of value for the new construction.

As with the comparative sales approach, application of the income approach requires income data and capitalization rates from *highly* comparable properties. In certain circumstances, the income approach may capture value attributable to more than just the qualifying new construction.

COST APPROACH

The cost approach is based on a comparison between the cost to develop a property and the value of the existing property or a similarly developed property. Because participants in the real estate market may relate value to cost, the cost approach may reflect market behavior.²¹

²¹ *Property Assessment Valuation*, second edition, published by International Association of Assessing Officers, p. 127.

For an improved property, the cost approach provides a value indication that is the sum of the estimated land value and the estimated depreciated cost of the building and other improvements. The economic principle that provides the foundation for the cost approach is the principle of substitution, which provides that a rational, informed purchaser will pay no more for property than the cost of acquiring an acceptable substitute with like utility, assuming that no costly delay will be encountered in making the substitute.

The cost approach usually works best for newer improvements because construction costs are easier to estimate and there is less depreciation. Although the comparative sales approach is preferred when adequate market information is available, the nature of new construction may limit the availability of relevant market data. In such cases, the cost approach may be preferred. Property Tax Rule 6 provides:

(a) The reproduction or replacement cost approach to value is used in conjunction with other value approaches and is preferred when neither reliable sales data (including sales of fractional interests) nor reliable income data are available and when the income from the property is not so regulated as to make such cost irrelevant. It is particularly appropriate for construction work in progress and for other property that has experienced relatively little physical deterioration, is not misplaced, is neither over- nor underimproved, and is not affected by other forms of depreciation or obsolescence....

In the context of real property, the steps employed in the cost approach can be summarized as follows:

1. Estimate the value of the land as if vacant and available for development to its highest and best use as of the valuation date.
2. Estimate the total cost new of the improvements as of the valuation date.
3. Estimate the total amount of depreciation incurred by the improvements.
4. Subtract the total estimated depreciation from cost new to arrive at the depreciated cost of the improvements.
5. Add the land value to the depreciated cost of the improvements to arrive at a value indicator for the total property.

Caution should be used when applying the cost approach, since construction costs may be highly divergent between different projects. In cases of over- or underimprovements, the actual market value of new construction may vary widely from the cost to construct those improvements. To compensate for these potential differences, the values derived using the cost approach should, whenever possible, be checked against values derived from the other approaches.²²

²² For an in-depth discussion of the cost approach, see Assessors' Handbook Section 501, *Basic Appraisal*.

Example 3-2

Owners of a single-family residence construct a new in-ground swimming pool. The actual cost of construction was \$35,000. Relevant market data indicates that adding a swimming pool in the neighborhood of the subject property increases the property's market value only by \$20,000.

In this case, the addition of the swimming pool should be assessed at its market value of \$20,000, rather than the actual construction cost of \$35,000.

ASSIGNING LAND VALUES

The assessment of newly constructed property often involves issues about the associated land value. The examples provided below illustrate the issues.

NEW CONSTRUCTION ON VACANT LAND**Example 3-3**

A vacant lot has a 1975 base year value of \$10,000. In 2004, the owner built a home on the lot. The fair market value of the unimproved lot before construction was \$200,000. After site improvements (leveling, site preparation, and foundation excavation) the fair market value of the land was \$240,000. Comparable properties were selling for \$500,000.

The value enrolled for the property would be as follows:

1975 base year value of land (unimproved)	\$10,000
Factored base year value of land in 2004	<u>x 1.72451</u>
	\$17,245
2004 market value of land with new construction (leveling, site preparation, foundation excavation)	\$240,000
Less 2004 market value of land without new construction	<u>-200,000</u>
	\$40,000
2004 assessed value of land	\$17,245
	<u>+40,000</u>
	<u>\$57,245</u>
2004 market value of comparable land and improvements	\$500,000
Less 2004 market value of comparable land	<u>-240,000</u>
	<u>\$260,000</u>
Total assessed value after completion of new construction	
Land	\$57,245
Improvements	<u>260,000</u>
	<u>\$317,245</u>

NEW CONSTRUCTION AND EXTERNAL APPRECIATION

A county assessor must determine the value for any portion of property that has been newly constructed.²³ Any substantial physical alteration of land which constitutes a major rehabilitation or results in a change in the way the property is used meets the definition of new construction.²⁴ When an alteration to land is substantial enough to require reappraisal, only the value of the alteration is added to the pre-existing base year value of the land. Appreciation in land value caused by other factors (for example, a zoning change or external market forces) may not be enrolled until a change in ownership of the property occurs.

Example 3-4

In 2000, a taxpayer purchased a vacant lot zoned for single-family residential development. At the time of purchase, the market value of the lot was \$100,000. The county was not issuing new building permits until a new sanitary sewer system was in place. Additionally, the community service district limited the number of water meters approved each year for new construction. Lots that had been allocated water meters were selling for \$180,000.

In 2003, the taxpayer was granted a water meter for her lot and was able to build her home. Installation of the water meter required only the addition of a small cement pad. The market value of the newly constructed home is \$350,000. The assessed value of the land and home would be calculated as follows:

2000 market value of land	\$100,000
2003 factored base year value of land	<u>x 1.06120</u>
	\$106,120
2003 market value of newly constructed home	\$350,000
2003 factored base year value of land	<u>106,120</u>
	<u>\$456,120</u>

In this instance, the water meter allocation is an easing of a governmental restriction similar to a zoning change. Any additional value attributable to the easing of that governmental restriction is not assessable until the property undergoes a change in ownership. Therefore, a county assessor would be precluded from increasing the factored base year value of the land. Any construction to install the water meter would be considered assessable new construction, but, in this case, the value added by the small cement pad was insignificant.

Example 3-5

A 50-acre parcel of agricultural land zoned for agricultural use is rezoned for residential subdivision use. The factored base year value of the land before the rezoning is \$800,000. The market value of the land after rezoning is \$3,000,000. Following rezoning, the owner

²³ Section 71.

²⁴ Rule 463(b)(2).

spends \$100,000 to contour the land to facilitate its residential development, but continued to farm the land.

The value to be enrolled is \$900,000, which consists of the pre-existing base year value of \$800,000, plus the value of the new construction to the land (contouring) of \$100,000.

Only the value added by the new construction may be added to the base year value of the land. The value attributable to the change in zoning (the increase in market value) is not assessable until there is a change in use or ownership.

Example 3-6

A taxpayer purchased a vacant parcel for \$100,000 in an area with minimal utilities available. Subsequently, the city installed a sewer system. As a result of the installation of the sewer system, the market value of parcels increased to \$170,000. The owner spent \$20,000 to install sewer pipes and connected them to the city's sewer system, but did not proceed with any additional construction.

The installation of the sewer pipes and connection to the city sewer system is assessable new construction. The \$20,000 attributable to the new construction should be added to the factored base year value of the land.

The value attributable to appreciation from causes other than the new construction to the land (the increase in market value) is not assessable until the property changes ownership.

NEW CONSTRUCTION OF OFF-SITE IMPROVEMENTS

Physical changes made to land can add great utility and value. Off-site improvements that are located outside of the a property, often referred to as *infrastructure*, also can add value to the land. Off-site improvements include transportation systems, sewage, water and drainage systems, and facilities for electric and gas power and telecommunications.

Off-site improvements or infrastructure can be constructed privately or by government, but in either case the costs must be paid by the property owner/buyer in some manner, either in sales prices, bond obligations, property taxes, or some combination of these. However, most off-site improvements are not assessable new construction.

The cost of off-site improvements, impact fees, and certain development fees—when not directly associated with new construction of a particular property—are considered nonassessable enhancement of land value, rather than assessable new construction. County assessors must distinguish between costs attributable to new construction and those that may enhance the value of the property but are not related to additions or alterations to the property.

Example 3-7

A developer acquired 17 acres of unimproved land with the intent of developing a shopping center. As a condition of development, the developer was required to construct a new freeway off-ramp near the site.

Although the freeway off-ramp undoubtedly added to the value of the shopping center (by managing increased traffic), the cost of the new construction is not assessable and cannot be included in the value of the shopping center. The off-site improvement is neither an addition to the shopping center, nor is it an alteration of the land. The increase in the market value of the shopping center's land that is attributable to the freeway off-ramp will be reflected in the marketplace, and will be assessable when the property changes ownership.

TREATMENT OF NEW CONSTRUCTION

Determination of assessable new construction must be made by a county assessor based on the available facts. The following tables provide examples of activities that do and do not represent assessable new construction. These examples are illustrative only and are not intended to be all-inclusive.

TABLE 3-1
EXAMPLES OF ACTIVITIES THAT DO CONSTITUTE ASSESSABLE NEW CONSTRUCTION

Installation of new items which did not previously exist, such as: <ul style="list-style-type: none"> • Bathrooms, fireplaces, air conditioning • Interior offices (in warehouses) • Interior partitions • Fixtures such as service station signs, fuel tanks, or dispensers • Fire protection systems installed after November 7, 1984 	Curing functional obsolescence associated with a reduction in base year value (Proposition 8) due to circumstances out of the owner's control, such as: <ul style="list-style-type: none"> • Fires • Floods • Mudslides • Earthquakes
Complete replacement of foundation	Converting attics or basements to living areas
Substantial kitchen remodel and alteration such as adding built-ins, extending countertops, adding new cabinets, and adding or removing part of walls	Replacing space heaters with central heating
Converting a single residence to a duplex	Converting a porch to living area
Converting a warehouse to a restaurant	Adding a pitched roof to a flat roof
Converting a garage into a living area	Upgrading electrical service, such as changing from 100 to 200 amp service

TABLE 3-2
EXAMPLES OF ACTIVITIES THAT ARE NOT ASSESSABLE NEW CONSTRUCTION

Exterior or interior painting	Adding aluminum siding to replace stucco
Replacing wall or floor coverings	Replacing roof coverings
Refinishing or replacing molding strips, plaster, sheetrock, and wall paneling with similar substitute materials	Total roof replacement (without changing the pitch)
Replacing bathroom cabinets	New interior partitions to replace old ones
Replacing kitchen cabinets	New canopies to replace old ones
Replacing kitchen appliances	New solar, space, or pool heating (replacing old conventional heating)
Replacing plumbing fixtures	New fire sprinkler system (replacing old system)
Replacing old sinks and bathtubs	Soundproofing homes affected by proximity to airports
Replacing wood frame windows with metal frames	Seismic (earthquake) safety rehabilitation of an existing structure on or after January 1, 1984
Normal, typical, and periodic repairs	Fire protection systems installed on or after November 7, 1984 in buildings which were in existence on that date—these include fire sprinklers, fire extinguishers, fire detection systems, and fire related egress improvements
Replacing waterlines with another type	Replacing floor or wall heating units with baseboard heating
Replacing cast iron sewer lines with plastic	Replacing home air conditioner or furnace
Replacing knob and tube wiring with cable	Replacing central gravity heating with central forced air heating

Individually, the activities in Table 3-2 are not new construction, but collectively they may constitute major rehabilitation, renovation, or modernization and may convert a structure into substantially equivalent to new. A county assessor must make a determination on a case-by-case basis.

1 RENOVIATION AND REHABILITATION

2 When extensive renovation or rehabilitation of a property (or a portion of it) converts it into one
3 that resembles a newly built property, the work is considered new construction and the county
4 assessor is required to establish a new base year value.²⁵ The base year value would not be
5 changed for any portion of a property that does not undergo new construction as a result of
6 renovation or rehabilitation.

7 *Example 3-8*

8 A single-family residence was severely damaged by flooding. Before the damage, the
9 property had a base year value of \$400,000, with \$120,000 allocated to land and \$280,000
10 allocated to improvements. Pursuant to disaster relief provisions,²⁶ the county assessor
11 reduced the base year value to \$200,000, allocating \$120,000 to land and \$80,000 to
12 improvements.

13 To guard against future floods, the taxpayer removed the old foundation and built a new
14 raised foundation 10 feet above ground level. Additionally, he replaced water-damaged
15 portions of the structure such as floors, sheet rock, and electrical wiring. At the end of
16 construction, the taxpayer had restored his house to its original condition, except for the new
17 foundation.

18 Rebuilding the flood-damaged portion of the property is excluded from reassessment²⁷ since
19 the new construction merely brought the property back to its previous condition. The value of
20 the removed foundation must be subtracted from the property's existing base year value, and
21 the value of the newly built raised foundation must be added. The base year value of the
22 house following repair of the flood damage is calculated as follows:

23	Land value	\$120,000	
24	Improvements		\$280,000
25	Less removal of the old foundation		<u>-10,000</u>
26			\$270,000
27	Market value of new foundation	\$20,000	
28	New base year value of improvements		\$270,000
29			<u>+20,000</u>
30			\$290,000
31	New base year value of repaired home		\$290,000
32			<u>+120,000</u>
33			<u>\$410,000</u>

²⁵ Section 70(b).

²⁶ Section 170.

²⁷ See Chapter 5 for detailed discussion of exclusions.

Example 3-9

A taxpayer purchased a 1,200 square-foot home for \$400,000, with \$350,000 allocated for land and \$50,000 for improvements. The home is located in a highly coveted neighborhood that has seen many average homes renovated into large mansions. The taxpayer gutted the home to its foundation and studs, built a new perimeter foundation to support additional floors, and rebuilt the home into a three-story, 3,600 square-foot mansion.

The new construction converted the renovated structure to the status of substantially equivalent to new. The base year value of the improvements should be reappraised to the current market values of other comparable properties in the area. The base year value of the land would not change.

ADDITIONS OR ALTERATIONS

For additions, there is no threshold test comparable to the extensive rehabilitation test used for alterations. Although the word *substantial* is not defined in the statute, Rule 463 employs it before both *addition* and *alteration*. The intent is to prevent reassessment of property when minor additions or alterations are completed. Such minor additions or alterations generally would not convert (for assessment purposes) a slightly improved property into one that is substantially equivalent to new.

NORMAL MAINTENANCE

Normal maintenance and repair would not result in reassessment as new construction since the purpose of it is to substitute parts of an improvement which have become worn-out or obsolete with ones of fundamentally the same type or function. Replacement and repair work falls under normal maintenance and is, therefore, excluded from assessment as new construction.

Example 3-10

A taxpayer purchased a 1,600 square-foot house (4 bedrooms, 3 bathrooms) for \$400,000. There had been no regular repair or maintenance work on the home for over 15 years. The purchase price was lower than the average selling price of comparably sized homes and reflected the poor condition of the house. Subsequently, the taxpayer made the following repairs and/or replacements to the house:

- Remodeled all three bathrooms by installing new shower enclosures, bath fixtures, and tile floors.
- Remodeled the kitchen by replacing the old appliances with new mid-range appliances; replacing the old countertops with tile counters; and replacing the old linoleum flooring with new linoleum.
- Upgraded the electrical wiring and plumbing in the kitchen and bathrooms to meet current code requirements.
- Replaced the old wood shingle roof (no change to the pitch) with new composition shingles. The gutters and downspouts were also replaced.
- Painted the house inside and out.

- 1 • Replaced the lawns in the front and backyards and planted new trees and flowers.
- 2 • Replaced the old deteriorated fence with new redwood fencing.
- 3 • No work was done on the foundation, and no new square footage was added.

4 Although extensive work was done on the house, the majority of the work was maintenance
5 as it merely replaced old and deteriorated items with new ones of like kind. The taxpayer did
6 not add any redesigned features to the house, nor did he improve it to the point that it looked
7 like a newly built home. No reappraisal of the base year value would be warranted.

CHAPTER 4: CONSTRUCTION IN PROGRESS

DEFINITION

For property tax purposes, construction in progress is defined as property under construction on the lien date (January 1). New construction may be an entire structure, such as an entirely new single-family residence or office complex, or only a portion of an improvement, such as a room addition.

Partially completed new construction does not acquire a base year value. Instead, new construction in progress on any lien date is assessed at its market value on that date and on each successive lien date until it is completed. Upon completion, the entire portion of the property which is newly constructed is reappraised at its market value and acquires a base year value.

The county assessor must use judgment in determining whether or not portions of a project can be considered complete for purposes of base year valuation. If the project is to be constructed in distinct stages, as in the case of a shopping center or an office complex, with portions being completed and available for use before other portions are constructed, then it is proper to assign a base year value to the completed portions.

If, however, a project is to be constructed as a single facility such that the entire improvement will become available for occupancy within a reasonably short period of time, the total project should be treated as construction in progress until all of the improvement is available for occupancy. The incidental occupancy of a portion of such an improvement would not cause the establishment of a separate base year value for the occupied portion unless there is evidence that there will be a significant time delay before the balance of the improvement is completed. When a project is available for occupancy but is vacant simply for lack of tenants, it should be considered complete and a base year value established.

Example 4-1

Construction on an office complex consisting of four office buildings began on May 1, 2001. The plan called for completion and occupancy of each building separately and in distinct stages. The first building was completed and occupied on May 1, 2002. A base year value for the first building should be established upon its completion on May 1, 2002.

On October 1, 2002, the developer declared bankruptcy. Construction of the remaining three buildings was halted. The second building had been partially built. There were no plans to resume the project in the near future.

The treatment of the second building requires additional analysis. Generally, if a building is not completed at least to the point where tenants can install tenant improvements, there is no authority to establish a new base year value for the partially completed building. The law requires that the construction must be assessed at its market value each lien date until its date

of completion, at which time the entire newly constructed structure is reappraised at its full value.²⁸

VALUATION OF CONSTRUCTION IN PROGRESS

Determining the value of construction in progress may present a difficult appraisal problem. The same methods and principles that apply when valuing completed improvements are applicable to construction in progress. However, the procedure is usually more difficult due to a lack of market data. The income and sales comparison approaches are of limited use because property under construction is typically not producing any income, and it is difficult to find comparable sales of partially completed projects.

The cost approach is nearly always used. The cost approach is used to determine the amount of costs in place relative to the partially completed project on the lien date. The total of costs in place on the lien date may be higher or lower than the market value of the new construction in progress on the lien date.

CASE STUDY

In 2001, Paul Sherman, a building contractor, purchased a five-acre lot for \$200,000. On this lot he planned to construct a 5,000 square-foot home to be used as his personal residence. He obtained a building permit on August 1, 2001 at a cost of \$3,000. In addition, Mr. Sherman had to submit a soil report at a cost of \$4,000. School fees at a rate of \$3.75 per square foot (\$3.75 x 5,000 square feet = \$18,000) were also required for all new construction within the county. On lien date, January 1, 2002, Mr. Sherman had completed phase one of the project, which included the following alterations to the land:

- Site preparation work was completed on October 1, 2001. This work included grading and leveling two acres at a cost of \$7,000. Mr. Sherman graded the land himself. The cost of grading reflected only the rental of the earth moving equipment and grading plans.
- On November 1, 2001, he completed a six-inch thick retaining wall made of steel, concrete, and stone. The retaining wall was six feet high and 120 feet long. In building the wall, Mr. Sherman used materials that were left over from prior building projects. The total cost of building the retaining wall was \$7,000 consisting mostly of labor and some materials.
- On December 1, 2001, he obtained a set of architectural design plans for a 5000 square-foot house with six bedrooms and six bathrooms for \$15,000. Also included in the plans were designs for the construction of a modern barn with in-law quarters.

On January 10, 2002, the appraiser from the county assessor's office appraised the new construction to the land. She noted that since the owner is also the builder, certain reported costs

²⁸ Section 71.

may not reflect the true market cost of construction. She evaluated the costs reported by the owner and compared them to true economic costs as follows:

- Cost of leveling and grading similar land sites in the county is \$10,000 per acre. She enrolled \$20,000 for land leveling and grading of the two acres of the subject lot.
- The owner-reported cost of the retaining wall was not consistent with local norms. The county appraiser used Assessors' Handbook Section 531, *Residential Building Costs*,²⁹ to obtain an estimated cost of building the retaining wall. She enrolled \$14,000.

The county appraiser's treatment of the first phase of the construction, considering actual costs versus economic costs, is shown below.

Phase One of the Construction		
Description of Work	Owner-Reported Costs	Economic Costs (Enrolled)
Grading and Leveling (2 acres)	\$7,000	\$20,000
Retaining Wall	\$7,000	\$14,000
Total Phase One Costs	\$14,000	\$34,000

In January 2003, the county appraiser returned to Mr. Sherman's property to inspect phase two of the construction and to appraise the construction in progress. She noted the following had taken place:

Phase Two of the Construction		
Description of work	Owner-Reported Costs	Economic Costs (Enrolled)
Foundation	\$20,000	\$20,000
Framing	\$15,000	\$25,000
Roof	\$20,000	\$20,000
Sheathing and Stucco	\$10,000	\$12,000
Electrical Rough-ins	\$10,000	\$13,000
Plumbing Rough-ins	\$15,000	\$15,000
Total Phase Two Costs	\$90,000	\$105,000

²⁹ Published annually by the State Board of Equalization.

The total cost of construction reported by Mr. Sherman for 2002 (\$90,000) was lower than the local norm (\$105,000). Certain work was done by Mr. Sherman himself, while other work was done by specialized subcontractors. In either case, most of the reported costs did not reflect the true costs of construction, but represented a discounted cost as Mr. Sherman used his extensive contacts within the industry to obtain favorable prices from subcontractors and materials suppliers. The appraiser enrolled true economic costs which more accurately reflected market costs.

In January 2004, construction in progress was 90 percent complete, with the exception being the basement and yard improvements. Upon final inspection from the building department, Mr. Sherman and his family moved into their new home. Reported cost of construction for 2004 was \$150,000. Total cost reported to date for improvements is $\$105,000 + \$150,000 = \$255,000$.

The county appraiser informed Mr. Sherman that the date of completion is the date the property or a portion of it is available for use after final inspection by the appropriate governmental official.³⁰ Furthermore, the county appraiser advised that on the date of completion, the completed portion of the newly constructed property must be reappraised at its full market value, while any construction in progress will continue to be appraised at its market value on the lien date and every lien date thereafter. The base year value of the land was calculated as follows:

• Acquisition of land in 2001	\$200,000
• Land improvements	<u>\$34,000</u>
• 2001 Base year value of land	<u>\$234,000</u>

The county appraiser used the comparable sales method to estimate the value of the building improvements. Properties with similar characteristics in the area were selling for \$800,000. Land parcels of similar size were selling for \$300,000. The value of improvements was calculated as follows:

$$\$800,000 - \$300,000 = \$500,000$$

The base year value of land and improvements was enrolled as follows:

2001 base year value of land	\$234,000
Adjusted base year value of land in 2004	\$234,000
	<u>x 1.05980</u>
	\$247,993
2004 base year value of improvements	\$500,000
Total Assessed Value	\$247,993
	<u>+\$500,000</u>
	\$747,993

³⁰ Rule 463(d).

CHAPTER 5: EXCLUSIONS

Article XIII A, section 2 of the California Constitution provides for certain exclusions from the definition of *new construction*. Most of these exclusions, which are implemented by various statutory provisions, permanently preclude the assessment of the qualifying new construction until there is a change in ownership.

RECONSTRUCTION AFTER A MISFORTUNE OR CALAMITY

The reconstruction of real property that has been damaged or destroyed by misfortune or calamity is not reassessable new construction³¹ if the following requirements are met:

1. The property is reconstructed in a timely fashion; and
2. The property after reconstruction is substantially equivalent to the property prior to the damage or destruction. Any reconstruction of real property, or portion thereof, that exceeds the substantial equivalent of the damaged or destroyed property will be deemed to be new construction; only that portion of the reconstruction that exceeds substantially equivalent reconstruction will have a new base year value.³²

The Legislature has enacted various statutes with different filing procedures applicable to property that has been damaged or destroyed by a disaster. The purpose of these statutes is to afford financial relief to the owners of property physically damaged or destroyed by an unforeseeable occurrence beyond their control.³³ There are certain prerequisites that must be met before relief is available under any of the disaster relief provisions:

- The property must sustain *physical* damage as opposed to economic devaluation by reason of its proximity to a disaster area.³⁴
- The physical damage to the property must be as a result of a sudden misfortune or disaster, not due to damage that occurred gradually over an extended period of time.
- The disaster must not be the fault of the property owner.

Many of the disaster relief provisions are available only under conditions where the Governor has proclaimed a state of emergency. Most commonly in California, the Governor proclaims a state of emergency for the existence of perilous conditions from fires, floods, storms, or earthquakes.³⁵ All proclamations since January 2000 are posted to the Governor's website.³⁶

³¹ Section 70.

³² Section 70(c).

³³ *T. L. Enterprises, Inc. v. County of Los Angeles* (1989) 215 Cal.App.3d 876, 880.

³⁴ 55 Ops. Cal. Atty. Gen. 412, 413-14 (1972); *Warren A. Slocum v. State Board of Equalization* (2005) 134 Cal.App.4th 969.

³⁵ Government Code section 8558.

³⁶ www.governor.ca.gov/archive/proclamations.

SECTION 70

Section 70 provides an exclusion from reassessment for reconstruction of property following a disaster. The provisions do not require an ordinance by the county board of supervisors.

Specific requirements of section 70(c) include:

- The damage may result from any disaster outside the fault of the property owner; it need not be the result of a Governor-proclaimed state of emergency.
- The provisions apply only to real property.
- The reconstructed property must be substantially equivalent to the damaged or destroyed property.
- The reconstruction of damaged or destroyed real property must be done timely.

Any reconstruction of real property that exceeds the substantial equivalent of the damaged or destroyed property will be deemed to be new construction, and a new base year value should be established for the newly constructed portion.

SECTION 170

If property has been damaged or destroyed by a disaster, the owner may request that the property be reassessed downward immediately to reflect the diminution in current value resulting from the damage or destruction. This immediate downward reassessment procedure is available only in those counties where the board of supervisors has adopted an ordinance authorizing the disaster relief provisions of section 170.³⁷

Specific requirements of the section 170 provisions include:

- The disaster may be the result of a Governor-proclaimed state of emergency or may be the result of other types of disaster.³⁸
- The total value of the damage to all taxable property (land, improvements, and personalty) must exceed \$10,000.³⁹
- An application may be filed with the county assessor within the time specified in the county ordinance or within 12 months after the damage or destruction, whichever is later.⁴⁰ Where no application has been filed by the property owner, a county assessor may, with the approval of the board of supervisors, reassess a qualifying property and then notify the last known owner of the reassessment.⁴¹

³⁷ As of June 2008, all counties except Fresno County have disaster relief ordinances pursuant to section 170. Section 51(b) provides lien date disaster relief for counties that have not adopted a section 170 ordinance.

³⁸ Section 170(a)(1).

³⁹ Section 170(b).

⁴⁰ Section 170(a)(3).

⁴¹ Section 170(1).

If damaged property is later restored, repaired, or reconstructed, the property will then be reassessed upward. The newly determined value cannot exceed its prior adjusted base year value, including inflation factoring for the period in which relief for damage was given, even though the fair market value may be higher. However, if the rebuilding of the property results in new construction as defined in Property Tax Rule 463 (that is, the rebuilt property exceeds the substantial equivalent of the property prior to damage or destruction), a new base year value should be established for the newly constructed portion.

SECTIONS 172 AND 172.1

Sections 172 and 172.1 extend the disaster relief provisions of section 170 to manufactured homes. Unlike section 170, the county board of supervisors does not need to adopt an ordinance to implement the provisions of sections 172 and 172.1.

Specific requirements of sections 172 and 172.1 include:

- The disaster must be the result of a Governor-proclaimed state of emergency.⁴²
- The replacement manufactured home must be comparable in size, utility, and location with the destroyed manufactured home.⁴³
- A manufactured home must be *destroyed* by a disaster. For assessment purposes, this means the manufactured home must have sustained damage in excess of the economic cost to cure the damage, or be declared a *total loss* for insurance purposes.

There are no pro rata tax reduction provisions, and no relief is available where a manufactured home has been only partially damaged. The owner of a destroyed manufactured home is assured that, if he or she replaces the home with a comparable unit, the property taxes or annual vehicle license fee will not suddenly increase.

A claimant whose replacement manufactured home is subject to local property taxation must apply to the county assessor for relief. The county assessor will enroll the replacement manufactured home at a taxable value calculated as either:

1. If subject to local property tax, the taxable value equal to the taxable value of the destroyed manufactured home at the time of its destruction; or
2. If subject to the vehicle licensing fee, the taxable value that would produce the same amount of property tax as the vehicle license and registration fees due on the destroyed home for the year prior to its destruction.

If the county assessor determines that the replacement home is not comparable, in addition to number (1) or (2) above, the county assessor will enroll as new construction that portion of the reconstructed or replaced home that exceeds substantial equivalence to the destroyed

⁴² Section 172.1(a).

⁴³ Section 172.1(a). See Assessors' Handbook Section 511, *Assessment of Manufactured Homes and Parks*, for a discussion of comparability of manufactured homes.

1 manufactured home. The value calculated for the replacement home will be adjusted annually by
2 the inflation factor.⁴⁴

3 If the replacement manufactured home is subject to the vehicle license fee, the Department of
4 Housing and Community Development will handle the fee adjustments necessary to maintain
5 equivalence to the prior license fee or local property tax.

6 **SECTION 5825**

7 Section 5825 provides for owners of manufactured homes relief similar to that provided to
8 owners of other taxable property under section 170. Specifically, an owner of a manufactured
9 home that is damaged or destroyed without the owner's fault in an event *not* resulting in a
10 Governor-proclaimed state of emergency is eligible for an immediate pro rata reduction in
11 assessment. However, this relief is available only to manufactured homes classified as personal
12 property and not to those classified as real property pursuant to Health and Safety Code section
13 18551 (placed on a permanent foundation).

14 Specific requirements of section 5825 include:

- 15 • The reconstruction or replacement of a damaged or destroyed manufactured home must
16 be done timely;⁴⁵ and
- 17 • The reconstructed or replacement manufactured home must be substantially equivalent to
18 the damaged or destroyed manufactured home.⁴⁶

19 Any reconstruction or replacement of a manufactured home subject to local property taxation
20 which is not substantially equivalent to the damaged or destroyed manufactured home will be
21 deemed to be new construction, and a new base year value should be established for the newly
22 constructed portion. The sum of the base year value of the damaged or destroyed manufactured
23 home and the value of any new construction will be enrolled as the base year value for the
24 reconstructed or replacement manufactured home.

25 If a manufactured home subject to the vehicle license fee is destroyed or damaged and is
26 replaced by a substantially equivalent manufactured home subject to local property taxation, the
27 county assessor will determine a base year value for the replacement home so that the property
28 taxes levied will be the same amount as the vehicle license fee for the destroyed home for the
29 year prior to its destruction or damage. (See Chapter 7 for a further discussion of new
30 construction for manufactured homes.)

31 **NEW CONSTRUCTION NOT ELIGIBLE FOR DISASTER RELIEF**

32 **Substantially Equivalent**

33 New construction following damage to real property by a calamity or misfortune is not eligible
34 for disaster relief if the rebuilt structure is not substantially equivalent to the property prior to

⁴⁴ Section 5813.

⁴⁵ Section 5825(c).

⁴⁶ Section 5825(c).

1 damage or destruction.⁴⁷ If any portion of the new construction exceeds substantial equivalence
 2 to the prior structure, then that portion will have a new base year value.

3 ***Example 5-1***

4 A taxpayer owned a 1,200 square-foot residence that was totally destroyed when his property
 5 was flooded. He timely replaced the damaged property with a 3,500 square-foot residence.

6 The additional square footage which exceeded the original 1,200 square-foot structure should
 7 be assessed as new construction. The rebuilt structure will have a two base year values. The
 8 pre-existing base year value will continue for the 1,200 square-foot portion of the rebuilt
 9 structure, and the additional 2,300 square feet will be appraised at market value as of the date
 10 of completion and a separate base year value will be established for that portion.

11 **Similar Design Type**

12 To be eligible for the new construction exclusion, the replacement property must have the same
 13 design type and must be classified on the basis of the same use as the original property. For
 14 example, residential properties must be replaced with similar residential properties.

15 ***Example 5-2***

16 A taxpayer owns a vacation home which is destroyed by a fire. He decides that building a
 17 motel on his property in place of his vacation home would be more profitable.

18 The taxpayer's replacement of the home with a motel is not eligible for disaster relief. The
 19 reconstructed property is not substantially equivalent to the property prior to the damage or
 20 destruction. Accordingly, the motel is considered new construction.

21 **Damage Resulting from Neglect**

22 *Misfortune* is commonly understood to signify adversity that happens to one in an unpredictable
 23 or chance manner, arising by accident or without the will or concurrence of the person who
 24 suffers from it. The term misfortune or calamity refers to sudden events associated with natural
 25 forces such as hurricanes, floods, and fires. Damage resulting from neglected maintenance would
 26 not qualify as misfortune or calamity.

⁴⁷ Section 70(c).

Example 5-3

A taxpayer's home is undergoing major renovation and reconstruction as a result of termite and dry rot damage. The taxpayer applied for disaster relief under section 70.

The request for disaster relief under section 70 should be denied. The type of damage incurred was not due to disaster but to neglect and lack of maintenance.

Damage Over Time

Damage which occurs over a period of time does not meet the definition of property damaged by a disaster or calamity and does not qualify for relief.

Example 5-4

The property owners of a golf course began using reclaimed water to irrigate the greens. It was soon determined that the reclaimed water contained a high level of sodium that was damaging the grass and plants. The property owners spent \$2,000,000 on extensive rehabilitation, renovation, and modernization which included a new drainage and irrigation system, new cart paths and path bridges, tree removal, and a complete reworking of course tees, fairways, bunkers, and greens.

The damage occurred gradually and over a period of time as the sodium accumulated in the soil. Therefore, the event that caused the damage does not qualify as a misfortune or calamity. The reconstruction to the property constitutes new construction and should be appraised at market value and a new base year value established.

SEISMIC SAFETY**UNREINFORCED MASONRY BUILDING IMPROVEMENTS**

Locally mandated seismic safety related improvements or reconstruction to unreinforced masonry walled structures are excluded from new construction for 15 years following the reconstruction or improvements.⁴⁸ If the property changes ownership during the 15-year period, a new base year value must be established and enrolled for the entire property. In the 16th year following the required reconstruction or improvement, the county assessor must enroll the excluded property at its current full cash value.⁴⁹

FILING REQUIREMENTS

The governing body that enacts a local seismic safety ordinance is required to issue a certificate of compliance upon request of an owner who has reconstructed or improved a structure in accordance with the ordinance.⁵⁰ To receive the new construction exclusion, the property owner must file the certificate with the county assessor no later than six months after the completion of the project.

⁴⁸ Section 70(d)(1).

⁴⁹ Section 70(d)(2).

⁵⁰ Section 70(d)(3).

Failure to file a certificate of compliance within the prescribed filing period is deemed a waiver of the exclusion for that year. If the certificate is filed after the six-month filing period, the exclusion applies prospectively, starting with the lien date following the filing.

SEISMIC RETROFITTING IMPROVEMENTS

Section 74.5 provides exclusions for new construction when the construction is associated with:

1. Seismic retrofitting of improvements; or
2. Improvements using earthquake hazard mitigation technologies.

This exclusion applies only to existing buildings and structures and does not apply to seismic safety reconstruction and improvements to unreinforced masonry structures that qualify for the exclusion provided in section 70(d).

Seismic retrofitting improvements are defined as the retrofitting or reconstruction of an existing building or structure to prevent falling hazards from structural or nonstructural components of any building or structure.⁵¹ To exclude seismic retrofitting improvements from assessment, the improvements must fit into one of the following classifications:

- Retrofitting or reconstructing to abate falling hazards that pose serious danger;
- Structural strengthening; or
- Improvements that provide the means necessary to resist seismic force levels during an earthquake to significantly reduce the hazards to life and safety and also provide safe entry and exit during and immediately after an earthquake.

In addition, seismic retrofitting includes those items referenced in the Uniform Code for Building Conservation of the International Conference of Building Officials which relate to:

1. The retrofit of concrete tilt-up buildings and provides requirements for wall anchors and diaphragm crossies;⁵² and
2. Prescriptive retrofit of residential cripple walls and foundation anchorage and bracing of cripple walls that can be implemented by the homeowner or contractor without requiring numerically based structural design.⁵³

IMPROVEMENTS USING EARTHQUAKE HAZARD MITIGATION TECHNOLOGIES

Improvements utilizing earthquake hazard mitigation technologies are defined as improvements to existing buildings identified by a local government as being hazardous to life in the event of an earthquake.⁵⁴ These improvements must involve strategies for earthquake protection of

⁵¹ Section 74.5(b)(1).

⁵² Uniform Code for Building Conservation, Appendix Chapter 5.

⁵³ Uniform Code for Building Conservation, Appendix Chapter 6.

⁵⁴ Section 74.5(b)(2).

structures and use technologies such as those referenced in the California Building Code⁵⁵ and similar seismic provisions in the Uniform Building Code.

CHANGE IN OWNERSHIP

When a property that has been granted a seismic retrofitting exclusion undergoes a change in ownership, the entire property, including the previously excluded new construction, is reappraised at its current full cash value as of the date of transfer. The new construction exclusion is available to the property owner who completes the construction; it is not passed along to subsequent owners.

FILING REQUIREMENTS

To receive the seismic retrofitting new construction exclusion, a property owner must notify the county assessor prior to or within 30 days of completion of the project. Additionally, all documents needed to support the claim must be filed no later than six months after completion of the project.

It is the responsibility of the property owner, primary contractor, civil or structural engineer, or architect to certify to the building department those portions of the project that are either seismic retrofitting improvements or improvements using earthquake hazard mitigation technologies. Upon completion of the project, the building department must report to the county assessor the value of those portions of the project meeting either of these definitions.

FIRE SPRINKLERS

Installation in an existing building of any fire sprinkler system, fire detection system, fire-related egress, or other fire extinguishing system is not within the definition of new construction or newly constructed real property and is excluded from additional property tax assessment.⁵⁶

Section 74(c) defines the following terms:

1. *Fire sprinkler system* means any system intended to discharge water for the purpose of suppressing or extinguishing a fire, and includes a fire sprinkler system that derives its water from the domestic water supply of the building or structure of which it is a part.
2. *Other fire extinguishing systems* is defined as any system intended to suppress or to extinguish a fire other than by discharging water upon the fire and includes, but is not limited to:
 - A component or application that is made part of the heating, ventilating, or air-conditioning system of a building or structure; or
 - A wet or dry chemical system.

⁵⁵ Part 2, commencing with section 101 of Title 24.

⁵⁶ Section 74.

3. *Fire detection systems* is defined as any system or appliance intended to detect combustion, or the products thereof, and to activate an alarm or signal, whether audio, visual, or otherwise, including all equipment used to transmit fire alarm activations and related signals to a remote location.

4. *Fire-related egress improvement* is defined as any improvement intended to do either of the following:

- Provide a new or improve an existing fire escape; or
- Provide a means of safeguarding or improving the safety of individuals who cannot evacuate a structure at the time of a fire emergency.

Example 5-5

The owners of Internet Data Center (IDC) installed new fire extinguishing and fire suppression systems in an existing building. The operation of IDC requires specialized electrical wiring, fiber optic communications, security systems, security cages, and uninterruptible power supplies to store and service the computer systems. The new fire detection and extinguishing systems were specially designed to suppress fires without damaging the sensitive electronic components and the electrical and fiber-optic wiring.

The new fire detection and suppression system should be excluded from assessment as new construction pursuant to the section 74 exclusion.

Section 74 excludes fire suppression systems and equipment that protect structures, fixtures, and personal property. The intent of the exclusion when approved by the voters and the Legislature in 1985 was to provide an incentive for owners of existing buildings to install fire suppression and detection systems by providing a shield against any increase in property taxes.

Example 5-6

A taxpayer purchases a fire detection system from an alarm company and it was attached to the taxpayer's building. The detection system was still controlled by the alarm company.

Agreements between the company installing a detection system and a property owner do not control the classification of the property. The fire detection system is real property and cannot be assessed as personal property. No portion of a fire detection system is considered personal property by reason of being owned or controlled by a person other than the owner of property upon which the fire detection system was constructed or installed.⁵⁷

Any fire detection system that is physically annexed to improvements with the intent that it remains annexed indefinitely is considered real property and cannot be assessed as personal property. The value of such systems is to be attributed to the real property, and is to be excluded

⁵⁷ Section 74(c)(3).

from assessment as new construction. The increase in value attributable to construction of these systems is not subject to property taxation.

Whether the taxes are paid indirectly through agreements with the alarm company or directly by the building owner, either through tax payment contracts or increased charges, the intent of the exclusion is that the building owner not incur any additional costs because of installation of a fire detection system.

DISABLED ACCESS

Proposition 110⁵⁸ authorized the Legislature to exclude from the term *newly constructed* certain construction, installation, or modifications made for the purpose of making a dwelling that is eligible for the homeowners' exemption more accessible to a severely disabled person. The Legislature codified this provision by adding Section 74.3 to the Revenue and Taxation Code.

Proposition 177⁵⁹ expanded this exclusion to include all other buildings. Section 74.6, which implements Proposition 177, applies to all existing buildings *except* those dwellings eligible for exclusion under section 74.3.

SECTION 74.3

Construction, installation, or modification of any portion or structural component of an existing single- or multiple-family dwelling is excluded from the definition of new construction if the construction is for the purpose of making the dwelling more accessible to a severely and permanently disabled person who is a permanent resident of the dwelling.⁶⁰

To qualify for this exclusion the following conditions must be met:

- The dwelling must be eligible for the homeowners' exemption.
- New construction on existing dwellings must be completed on or after June 6, 1990.
- The work performed must be for the purpose of making the dwelling more accessible to a severely and permanently disabled person who is a permanent resident of the dwelling.

Accessible is defined to mean the combination of elements with regard to any dwelling that provides for access to, circulation throughout, and the full use of the dwelling and any fixture, facility, or item therein.⁶¹

Severely and permanently disabled person is defined as any person who has a physical disability or impairment, whether from birth or by reason of accident or disease, that results in a functional limitation as to employment or substantially limits one or more major life activities of that person, and that has been diagnosed as permanently affecting the person's ability to function,

⁵⁸ Approved by California voters on June 5, 1990.

⁵⁹ Approved by California voters on June 7, 1994.

⁶⁰ California Constitution, article XIII, section 2(c)(3); section 74.3(a).

⁶¹ Section 74.3(c).

including, but not limited to, any disability or impairment that affects sight, speech, hearing, or the use of any limbs.⁶²

The exclusion provided by this section does not apply to the construction of an entirely new dwelling.⁶³ Only improvements or features that specially make the dwelling more accessible to a disabled resident may be excluded. The value of any other improvement, addition, or modification is not excluded from assessment unless it is merely incidental to the qualified improvements or features.

The construction of an entirely new addition, such as a bedroom or bath, that duplicates existing facilities in the dwelling that are not otherwise available to the disabled resident solely because of his or her disability will be deemed to make the dwelling more accessible.

Example 5-7

A taxpayer is severely and permanently disabled and confined to a wheelchair. He constructs a new addition to his home with special features specific to individuals confined to wheelchairs. The new construction includes extra wide doors and specially designed bathroom facilities.

The new construction is eligible for section 74.3 exclusion.

The new construction exclusion applies only to making a dwelling's existing fixtures, facilities, or items in the home more accessible to a disabled person. However, the Legislature intended to include the construction of certain new additions.

The concept of making *full use of the dwelling* is defined as making it more accessible.⁶⁴ If any portion of the home is inaccessible by a disabled resident, then the construction of an addition which makes the home more accessible falls within the category of providing for the *full use of the dwelling*.

The exclusion can be applied where entirely new additions (such as a bedroom and bathroom) are constructed to allow the disabled resident to replace the use of certain portions of the home to which they did not have prior access. It is within the judgment of a county assessor inspecting additions or modifications for which a claim under this section is made to establish that the new construction was in fact made for the purpose of making the dwelling more accessible to a disabled resident. Any new construction which is not merely incidental to the qualified improvements is assessable.

The following are examples of modifications undertaken to accommodate a disabled resident and to provide for the full use of a dwelling:

⁶² Section 74.3(b).

⁶³ Section 74.3(e).

⁶⁴ Section 74.3(c).

- Kitchen remodeled to accommodate a disabled resident in a wheelchair (new cabinets, lower kitchen countertop, new kitchen appliances, remove kitchen island).
- Enlarged doorways and installed ramps to accommodate wheelchair access.
- Addition of ramps, handrails, ingress and egress improvements, elevated stair lifts, and elevators either within or attached to the existing dwelling.
- Conversion of an existing family room into a bedroom and the addition of a wheelchair accessible bathroom.
- Garage conversion into bedroom and bathroom for a disabled person.
- Addition of a bedroom and bathroom for a disabled person.

The following examples do not qualify for the exclusion from new construction:

- Construction of an entirely new dwelling. However, the added value of any features in the home which specially adapt the home for use by a disabled person (for example, wider doorways, enlarged bathroom facilities, rails, ramps) would be excluded from new construction.
- Pool or spa added under physician's orders. However, any special features or customization necessary in the pool or spa to accommodate the disabled resident are not assessable.
- Enlargement of the living room where the additional space was not for the purpose of accommodating the disabled resident.
- The addition of a family room to a home which previously did not have one.

Filing Requirements

Certain filing requirements must be followed to receive the new construction exclusion for disabled persons.⁶⁵ The disabled person, his or her spouse, or his or her legal guardian must submit both of the following statements:⁶⁶

1. A statement signed by a licensed physician or surgeon, of appropriate specialty, which certifies that the person is severely and permanently disabled and identifies specific disability-related requirements necessitating accessibility improvements or features; and
2. A statement by the claimant that identifies the construction, installation, or modification that was in fact necessary to make the dwelling more accessible to the disabled person.

⁶⁵ Section 74.3.

⁶⁶ Section 74.3(f).

The county assessor may charge a fee to the disabled person, or his or her spouse, or legal guardian sufficient to cover the cost of processing and administering the claim.⁶⁷

SECTION 74.6

Construction which includes the installation, removal, or modification of any portion of an existing building to make it more accessible or more usable to a disabled person is excluded from assessment as new construction.⁶⁸ The exclusion does not apply to the construction of an entirely new building or structure, or to the construction of an entirely new addition to an existing building or structure.

To qualify for the new construction exclusion provided by Section 74.6, the following conditions must be met:

- The new construction must be completed on or after June 7, 1994;
- The new construction must be for the purpose of making the building more accessible to, or more usable by, a disabled person;
- The new construction must be made to an existing building;
- Newly constructed buildings or entirely new additions to existing buildings do not qualify;
- The new construction must not qualify for the new construction exclusion provided by section 74.3; and
- Only new construction associated with physical impairments is eligible for this exclusion. New construction associated with mental or emotional disabilities does not qualify for the exclusion under this section. However, any construction associated with physical impairment resulting from mental or emotional disabilities may qualify for this exclusion.

Types of Improvements

Types of qualifying construction, improvements, modifications, or alterations of an existing building or structure include:⁶⁹

- Access ramps
- Widening of doorways and hallways
- Barrier removal and access modifications to restroom facilities
- Elevators

⁶⁷ Section 74.3(g).

⁶⁸ Section 74.6.

⁶⁹ Section 74.6(f).

- Any other accessibility modification of a building or structure that would cause it to meet or exceed the accessibility standards of the 1990 Americans with Disabilities Act (Public Law 101-336) and the most recent edition to the California Building Standards Code that is in effect on the date of the application for a building permit.

Filing Requirements

The property owner, primary contractor, civil engineer, or architect must submit to the county assessor a statement that identifies those specific portions of the project that constitute construction, installation, removal, or modification improvements to the building or structure to make the building or structure more accessible to, or usable by, a disabled person.⁷⁰

In order to receive the new construction exclusion, the property owner must notify the county assessor prior to or within 30 days of completion of a project. All documents necessary to support the exclusion from new construction must be filed by the property owner with the county assessor no later than six months after the completion of the project.⁷¹

Example 5-8

A department store chain remodeled three of its stores. The plan calls for widening doorways, constructing access ramps for wheelchairs, and modifying restrooms to improve accessibility for their disabled customers. All remodeling work took place within the existing buildings. However, in one store the company decided that it was more cost-effective to build a new restroom facility attached to the building rather than convert the existing one.

The new construction for all work related to improving access for disabled persons should be excluded for reassessment, except the construction of the new restroom. The construction of the new restroom should be valued at market value and a base year value established.

ACTIVE SOLAR ENERGY SYSTEM

An *active solar energy system* is defined as a system that uses solar devices, which are thermally isolated from living space or any other area where the energy is used, to provide for the collection, storage, or distribution of solar energy.⁷² Article XIII A, section 2(c)(1) of the California Constitution, implemented by section 73, provides that the construction or addition of any active solar energy system is excluded from the definition of assessable new construction.⁷³

Active solar energy systems may be used for any of the following:⁷⁴

- Domestic, recreational, therapeutic, or service water heating

⁷⁰ Section 74.6(e).

⁷¹ Section 74.6(g).

⁷² Section 73(b)(1).

⁷³ Section 73(e) provides that this exemption will remain in effect only until January 1, 2010, and as of that date is repealed. For purposes of supplemental assessment, this section applies only to qualifying construction or additions completed on or after January 1, 1999.

⁷⁴ Section 73(b)(3).

- Space conditioning
- Production of electricity
- Process heat
- Solar mechanical energy

An active solar energy system does not include solar swimming pool heaters or hot tub heaters.⁷⁵

An active solar energy system does, however, include storage devices, power conditioning equipment, transfer equipment, and parts related to the functioning of those items. *Parts* include spare parts that are owned by the owner of, or maintenance contractor for, an active solar energy system for which the parts were specifically purchased, designed, or fabricated for installation in that system.

In general, the use of solar energy in the production of electricity involves the transformation of sunlight into electricity through the use of devices such as solar cells or other collectors. However, an active solar energy system includes only equipment used up to, but not including, the stage of the transmission or use of the electricity.⁷⁶ Therefore, storage devices, power conditioning equipment, transfer equipment, and parts related to the functioning of those items are excluded from assessment as new construction. In addition, pipes, ducts, furnaces, and hot water heaters that are used exclusively to carry energy derived from solar energy are also excluded from new assessment.

Pipes and ducts that are used to carry energy derived from solar energy as well as other sources are excluded to the extent of 75 percent of their full cash value.⁷⁷

Example 5-9

A company constructs a solar energy facility that includes solar energy panels, connection equipment, and a building housing the control panels. The company claimed the entire facility, including storage facilities and fences, should be excluded from assessment.

New construction of the active solar energy system should be excluded from new construction, but not the property used in conjunction with the system, such as the storage buildings and fences.

Example 5-10

The owner of a gas station installed a carport over existing parking spaces for the convenience of his customers and installed active solar panels on top of the carport. The property owner claimed the solar panels and the carport were exempt from assessment as new construction.

⁷⁵ Section 73(b)(2).

⁷⁶ Section 73(c)(1)(B).

⁷⁷ Section 73(c)(2).

The construction of a carport that has active solar panels installed on its roof is not excluded from assessment unless the carport itself is part of the active solar energy system. In this example, the carport is not part of an active solar energy system but rather serves as the mounting point for the solar panels. Further, the carport appears to serve the primary function of providing shade and shelter for customers rather than being a functioning part of an active solar energy system.

BUILDERS' EXCLUSION

Section 75.12 implements the exclusion from supplemental assessment commonly known as the *builders' exclusion*. The exclusion allows builders to avoid reassessment of their inventories. The exclusion is accomplished by deferring the date of completion of new construction where either:

1. A builder has notified the county assessor that he or she does not intend to occupy or use the property; or
2. The property meets certain criteria applicable to the development of residential subdivisions.

The builders' exclusion applies only to the initial supplemental assessment for the completion of new construction. It does not preclude the reassessment of construction on the assessment roll on the lien date following the date of completion of construction or to any other supplemental assessments on the property, such as the change in ownership related to the initial acquisition of the property.

For the builders' exclusion, new construction is considered completed at the date upon which the new construction is available for use by the owner, unless the owner does not intend to occupy or use the property. *Occupy or use* means the occupancy or use by the owner, including the rental or lease of the property.⁷⁸ Property is not considered occupied or used by the owner, or with the owner's consent, if the occupancy or use is in conjunction with an offer for a change of ownership, such as use of the property as a model home.⁷⁹

⁷⁸ Section 75.12(b)(1).

⁷⁹ Section 75.12(b)(2).

CHAPTER 6: CONTAMINATED PROPERTIES

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT

FEDERAL REGULATIONS

In response to growing public demand for governmental regulation of hazardous waste sites, Congress enacted The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). CERCLA, commonly known as Superfund, seeks to address the hazardous waste problem on a variety of fronts. CERCLA⁸⁰ requires persons in charge, upon becoming aware of a release of a hazardous substance from their vessel or facility, to report the release to the government and to provide reasonable notice in the media to those who may be potentially injured. Additionally, CERCLA provides standards for investigation and cleanup of hazardous waste sites, along with funding for carrying out such investigations and cleanups.

One of the most significant aspects of CERCLA for prospective buyers and sellers of property is its imposition of liability for hazardous waste cleanup. Thus, although CERCLA provides funding for cleanup of hazardous waste sites, it is important to note that the law has never been intended as a relief program for owners of property contaminated by hazardous waste. To the contrary, CERCLA burdens these owners with a standard of liability so broad that their mere status as owners (or operators) is often sufficient to hold them responsible for cleanup costs. This can occur even though the actual release of hazardous waste may have happened under a previous ownership.

CERCLA identifies *Potentially Responsible Parties* (PRP's) as including:

1. Current owners or operators;
2. Owners or operators at the time the contamination occurred;
3. Intervening owners who had knowledge of the hazardous substance release; and
4. Persons generating the hazardous waste.

PRP's may be forced to pay by an administrative order, legal action by the government, or under a private right of action by another PRP. The courts have held that the liability of PRP's under CERCLA is strict, joint and several, and retroactive. Essentially, this means that:

1. It does not matter whether the contamination was caused by some wrong-doing or negligence on the part of the PRP.
2. Any one PRP may be held responsible for the entire cost of the cleanup regardless of that PRP's relative contribution to the contamination problem.
3. Its does not matter how long ago the release of the hazardous substance occurred.

⁸⁰ As amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA).

Part of CERCLA is the National Contingency Plan (NCP). The NCP provides a non-inclusive listing of possible treatment types to be applied under varying circumstances. Generally, the NCP provides that for the remediation of contaminated soil the lead regulatory agency⁸¹ must consider the following:

1. Removal of the contaminated soil, either by excavation or dredging.
2. Treatment of the contaminated soil without removal, employing biological, chemical, or physical means.

For treating contaminated groundwater, the NCP provides that the lead agency shall consider specified containment or control techniques. For treating contaminated surface water, the lead agency shall consider elimination, containment, or treatment.

STATE REGULATIONS

California's environmental laws are enforced by a matrix of state and local agencies, each charged with enforcing the laws governing a specific media such as air, water, hazardous waste, solid waste, and pesticides. The California Environmental Protection Agency (Cal EPA) and its various departments, such as the Department of Toxic Substances Control (DTSC), oversee site cleanups, prevent release of hazardous materials, enforce actions against PRP's, and evaluate soil, water, and air samples.

The Carpenter-Presley-Tanner Hazardous Substance Account Act, commonly known as *California Superfund*, is the state counterpart to CERCLA. It authorizes DTSC to carry out all CERCLA hazardous waste management responsibilities, including undertaking cleanup activities itself or ordering PRP's to undertake such activities. When DTSC undertakes the cleanup, it may seek recovery of the costs from PRP's.

In addition to its authority to carry out CERCLA responsibilities generally, DTSC has specific authority to restrict the use or development of property that it identifies as hazardous waste property.

STATUTORY PROVISIONS

When assessing land, a county assessor must consider the effect upon value of any enforceable land use restrictions.⁸² The restrictions include, but are not limited to:

- Environmental constraints applied to the use of land; and
- Hazardous waste land use restrictions.⁸³

If a property is subject to statutorily imposed environmental constraints, a county assessor is required to consider such constraints in valuing the property. When the use of land has been

⁸¹ There are various governmental agencies that are responsibility for portions of CERCLA.

⁸² Section 402.1(a).

⁸³ Health and Safety Code section 25240.

restricted, a county assessor must reassess the land on the lien date following the adoption or imposition of the restriction.

NEW CONSTRUCTION FOR CONTAMINATED PROPERTY

The assessment of new construction on contaminated property presents unique challenges within the context of Proposition 13 and current property tax law. The situations that arise are as varied as the types of properties that become contaminated. Furthermore, the remediation activities range from basic containment to elaborate cleanup followed by monitoring procedures and measures to prevent future contamination.

The issues facing county assessors include:

1. Whether or not remediation work is considered assessable new construction; and
2. Valuation of the new construction.

CONSTITUTIONAL PROVISIONS

Article XIII A, section 2(i) of the California Constitution required the Legislature to provide for the transfer of the base year value of qualified contaminated property to replacement property and to exclude from the definition of new construction any repairs to or replacement of property necessary to remediate environmental problems on qualified contaminated property. Paragraph (1)(B) provides that

In the case in which the remediation of the environmental problems on the qualified contaminated property requires the destruction of, or results in substantial damage to, a structure located on that property, the term "new construction" does not include the repair of a substantially damaged structure, or the construction of a structure replacing a destroyed structure on the qualified contaminated property, performed after the remediation of the environmental problems on that property, provided that the repaired or replacement structure is similar in size, utility, and function to the original structure.

Paragraph (2) of subdivision (i) sets forth the definition of *qualified contaminated property*. In order to qualify, properties must meet all of the following conditions:

1. In the case of residential real property, it is rendered uninhabitable. Residential real property is considered uninhabitable if, as a result of health hazards caused by or associated with the environmental problems, it is unfit for human habitation.
2. In the case of nonresidential real property, it is considered unusable. Nonresidential real property is considered unusable if, as a result of health hazards caused by or associated with the environmental problems, the real property is unhealthy and unsuitable for occupancy. Environmental problems include, but are not limited to, the presence of toxic or hazardous materials, or the remediation of those environmental problems.

3. The property must be located on a site that has been designated as a toxic environmental hazard or as an environmental cleanup site by an agency of the State of California or the federal government.
4. Real property that contains a structure prior to the completion of environmental cleanup activities, and that structure is substantially damaged or destroyed as a result of those environmental cleanup activities.
5. Stipulated by the lead governmental agency, with respect to the environmental problems or environmental cleanup of the real property, not to have been rendered uninhabitable or unusable by any act or omission in which an owner of that real property participated or acquiesced.

It is rebuttably presumed that an owner of real property participated or acquiesced in rendering the real property uninhabitable or unusable if that owner is related to any individual or entity that committed that act in any of the following ways:⁸⁴

- The owner is a spouse, parent, child, grandson, grandchild, or sibling of that individual;
- The owner is a corporate parent, subsidiary, or affiliate of that entity;
- The owner has control of that entity; or
- The owner is owned or controlled by that entity.

If this presumption is not overcome, the owner may not receive the relief from property taxes.

STATUTORY PROVISIONS

New construction does not include the repair or replacement of a substantially damaged or destroyed structure on qualified contaminated property where the remediation of the environmental problems required the destruction of, or resulted in substantial damage to, a structure located on that property.⁸⁵ The repaired or replacement structure must be similar in size, utility, and function to the original structure. This exclusion is specific to structures and is not applicable to land.

Section 74.7(b) defines the following terms:

- *Substantially damaged or destroyed* means the structure sustains physical damage amounting to more than 50 percent of its full cash value immediately prior to the damage.
- *Similar in function* means the replacement structure is subject to similar governmental restrictions, including, but not limited to, zoning.

⁸⁴ California Constitution, article XIII A, section 2(i)(3).

⁸⁵ Section 74.7(a).

- *Similar in size and utility* means the size and utility of the structure are interrelated and associated with its value. A structure is similar in size and utility only to the extent that the replacement structure is, or is intended to be, used in the same manner as the substantially damaged or destroyed structure, and its full cash value does not exceed 120 percent of the full cash value of the replaced structure if that structure was not contaminated. For these purposes:
 - A replacement structure or any portion thereof used or intended to be used for a purpose substantially different than the use made of the replaced structure, shall, to the extent of the dissimilar use, be considered not similar in utility.
 - A replacement structure or portion thereof that satisfies the use requirement but has a full cash value that exceeds 120 percent of the full cash value of the structure if that property were not contaminated will be considered, to the extent of the excess, not similar in utility and size.

To the extent that replacement property, or any portion thereof, is not similar in function, size, and utility, the property (or portion) shall have a new base year value established.⁸⁶

Only the owner or owners of the property substantially damaged or destroyed in the process of remediation of the contamination, whether one or more individuals, partnerships, corporations, other legal entities (or a combination) will receive property tax relief under this section.⁸⁷

FILING REQUIREMENTS

In order to receive the new construction exclusion for contaminated property, the property owner must notify the county assessor in writing that he or she intends to claim the exclusion prior to, or within 30 days of, completion of a project. All documents necessary to support the exclusion must be filed by the property owner with the county assessor no later than six months after completion. A claimant is not be eligible for the exclusion unless the claimant provides to the county assessor the following information:⁸⁸

1. Proof that the claimant did not participate in, or acquiesce to, any act or omission that rendered the real property uninhabitable or unusable or is related to any individual or entity that committed that act or omission;
2. Proof that the qualified contaminated property has been designated as a toxic or environmental hazard or as an environmental cleanup site by an agency of the State of California or the federal government;
3. The address and the assessor's parcel number (if known) of the qualified contaminated property; and

⁸⁶ Section 74.7(b)(4).

⁸⁷ Section 74.7(c).

⁸⁸ Section 74.7(d).

4. The date of the claimant's purchase and the date of completion of the new construction.

QUALIFYING PROPERTY

In qualifying for the exclusion, a property must meet the requirements set forth by the Constitution and the statute:

- The structure must be rendered unusable by the contamination or the remediation;
- The damage must be more than 50 percent of the full cash value;
- The site must be designated a toxic site;
- The owner must not be responsible for the contamination;
- The replacement must be within 120 percent of the full cash value of the original; and
- A timely and complete application must be filed with the county assessor.

In determining whether remediation is assessable new construction, a county assessor must consider the following:

- Whether the remediation constitutes an addition to the property. Any addition to real property which does not have an applicable exclusion should be considered new construction.⁸⁹ The addition must be substantial.⁹⁰ The addition of a new element is considered new construction.⁹¹
- Whether the remediation alters the property. Any alteration of land or of any improvement (including fixtures) since the last lien date which constitutes a major rehabilitation of the property or which converts it to a different use is considered new construction.⁹² Rule 463(b)(2) and (b)(3) interpret that statutory provision for land and improvements, respectively, as follows:
 - The alteration to land is substantial and constitutes a major rehabilitation or changes the property's use.
 - The alteration to an improvement converts the improvement to the substantial equivalent of a new structure or changes its use.
- Whether the remediation is part of normal maintenance or repair. Normal maintenance and repair are excluded from alternations that qualify as new construction.⁹³ Examples of normal maintenance include annual preparation of agricultural land, interior or exterior painting, and the replacement of worn out machine parts.

⁸⁹ Section 70(a)(1).

⁹⁰ Rule 463(b)(1).

⁹¹ Section 70(a)(1); Rule 463.

⁹² Section 70(a)(2).

⁹³ Rule 463(b)(4).

- 1 • Whether the remediation is excludable. While there are several statutory exclusions
2 available, the most relevant is the environmentally contaminated property exclusion
3 provided for by section 74.7.
- 4 • Whether there has been an intervening change in ownership. A different treatment of
5 remediation (that would have qualified for the section 74.7 exclusion) is required if the
6 property has a change in ownership after the contamination but before the remediation.⁹⁴
7 Property that was uninhabitable or unusable property, and the environmental problem
8 was known to the owner at the time of acquisition or construction, does not qualify for
9 exclusion.⁹⁵

10 ***Example 6-1***

11 A paint manufacturing facility had a discharge of industrial solvents on its property. As part
12 of the remediation, and in order to contain the spill and prevent contamination from
13 spreading to the surrounding areas, the facility was required to construct a retaining wall and
14 to install several monitoring wells.

15 The addition of the retaining wall and monitoring wells, which did not previously exist on the
16 property, qualify as new construction. The county assessor must determine the market value
17 of the new construction and establish a base year value.

18 In determining whether an alteration to land constitutes a major rehabilitation, the law and the
19 courts fail to provide a bright line test as to how much remediation work must be completed to
20 qualify as major rehabilitation. When remediation to land merely restores that land to its original
21 size, utility, and function, it does not meet the standard of major rehabilitation and therefore is
22 not assessable new construction. Instead, such restorative remediation might be considered
23 maintenance or repair.⁹⁶

24 ***Example 6-2***

25 A paint manufacturing facility is required to clean up contaminated soil. This entails
26 removing the contaminated soil and replacing it with clean fill.

27 Normally, the addition of new landfill is considered a substantial addition to land and may be
28 considered new construction.⁹⁷ However, the addition of the landfill in this case is not an
29 addition of something that had not existed before but rather the replacement of something
30 removed and should not be considered new construction.

⁹⁴ California Constitution, article XIII A, section (2)(i).

⁹⁵ California Constitution, article XIII A, section 2(i).

⁹⁶ Rule 463(b)(4).

⁹⁷ Rule 463(b)(1).

1 **Example 6-3**

2 A paint manufacturing facility sustained significant contamination and sold the property
3 before any remediation work started. The new owner acquired the facility at a discounted
4 price in consideration of costs that would be necessary to clean up the facility.

5 Since the new owner had knowledge of the contamination at the time of purchase, the new
6 constructions exclusions are not available.⁹⁸

7 **VALUATION PROCEDURES**

8 When the discovery of contaminated property and the full remediation is accomplished within a
9 single year, the appraisal is straight forward and there is no need to adjust the base year value.
10 On the other hand, when it is discovered that the property is contaminated after the lien date but
11 before remediation begins, then the property may be eligible for a Proposition 8 decline in value.
12 If a structure is removed and the reconstruction does not start until after the next lien date, the
13 removal of the structure should be reflected on the supplemental roll.

14 The California Constitution provides protection for property owners whose property is destroyed
15 by health and life threatening toxic waste buried on their property.⁹⁹ Although there are no
16 specific statutory provisions, it is reasonable to assume that upon the completion of a
17 replacement structure or reconstruction of an original structure that had been rendered unusable
18 or uninhabitable by contamination, the factored base year value of the original structure should
19 be reinstated, similar to the provisions following a disaster or calamity.¹⁰⁰

20 **DATE OF COMPLETION**

21 Many hazardous waste cleanup projects are long-term operations. Some projects take years, if
22 not decades, of continuous cleanup and rehabilitation work. Moreover, in many cases a complete
23 rehabilitation of the property may never be achieved. The difficulty for a county assessor is
24 determining the date of completion of cleanup and rehabilitation work.

25 The date of completion of new construction for a hazardous waste cleanup project is the date on
26 which the property is deemed operational and functional.¹⁰¹ A remedy becomes *operational and*
27 *functional* either one year after construction is completed, or when the remedy is determined
28 concurrently by the EPA and DTSC to be functioning properly and is performing as designed,
29 whichever is earlier. Therefore, communicating with the lead agency about a project and its
30 progress will be necessary to establishing whether a remedial action has been deemed
31 operational and functional.

32 **ONGOING OPERATIONS AND MAINTENANCE**

33 Once a project is operational and functional, and it has entered the *operation and maintenance*
34 phase, any further additions or alterations must be analyzed individually to see whether they

⁹⁸ Section 2(i)(2)(A) of article XIII of the California Constitution.

⁹⁹ Article XIII A, section 2(i).

¹⁰⁰ Section 69.3.

¹⁰¹ Rule 463.500.

1 constitute new construction. However, county assessors should presume that work during this
2 phase is normal maintenance of the project and not new construction. Only when there is an
3 addition or alteration which substantially heightens the rehabilitation, rather than just
4 maintaining it, should operation and maintenance activities be considered new construction.

CHAPTER 7: MISCELLANEOUS ISSUES

TAXABLE POSSESSORY INTERESTS

When real property is newly constructed after the 1975 lien date, the county assessor must determine the full value of the newly constructed property as of the time the property is available for use.¹⁰² If a lessee of a taxable possessory interest constructs improvements on the tax-exempt land, the newly constructed improvements may or may not be considered to be property of the government entity owning the land. This consideration affects whether the improvements are to be assessed to the lessee in fee or as a possessory interest. The determination of the taxability of improvements should be determined as follows:

- If a lessee constructs improvements on tax-exempt land and retains ownership of a fee simple or life estate in the improvements, the improvements are to be valued in fee to the lessee, and a renewal of the land lease would not cause a reappraisal of the improvements.
- If a lessee constructs improvements on tax-exempt land and the improvements constructed by the lessee become the property of the public agency owning the land, the lessee would have a taxable possessory interest in the improvements and a renewal of the land lease would cause a reappraisal of the possessory interest in both the land and improvements.

For a more detailed discussion of possessory interests see Assessors' Handbook Section 510, *Assessment of Possessory Interests*.

MANUFACTURED HOMES

New construction of a manufactured home is defined in section 5825. This section supersedes the general definition of new construction in section 70 since section 5825 specifically relates to manufactured homes. Section 5825 reads in part:

"Newly constructed" and "new construction" means:

- (1) Any substantial addition to a manufactured home since the last lien date; and
- (2) Any alteration of the manufactured home which constitutes a major rehabilitation thereof or which converts the property to a different use.
- (b) Any rehabilitation, renovation, or modernization which converts a manufactured home to the substantial equivalent of a new manufactured home is a major rehabilitation of such manufactured home.

¹⁰² Article XIII A, section 2, California Constitution; Rule 463.

New construction in progress on the lien date will be appraised at its full value on such date and each lien date thereafter until the date of completion, at which time the entire portion of property which is newly constructed will be reappraised at its full value.¹⁰³ The base year value of the remainder of the property assessed, which did not undergo new construction, should not be changed.

RELOCATION OF MANUFACTURED HOMES

The relocation of a manufactured home without a change in ownership, whether in the same county or to another county, is not new construction.

The provisions of section 75.10, which provide that new construction includes the removal of a *structure* from land, do not pertain to manufactured homes. A *structure* is real property, and a manufactured home is not classified as real property for property taxation purposes,¹⁰⁴ unless it is installed on an approved foundation.¹⁰⁵ The addition of accessories, such as awnings, skirting, decking, or carport, following relocation of a manufactured home, however, would be considered new construction.

MANUFACTURED HOMES SUBJECT TO VLF

A manufactured home subject to the Vehicle License Fee (VLF) is not subject to property taxation. Therefore, any new construction of a manufactured home subject to the VLF is not assessable.¹⁰⁶ However, new construction of accessories associated with a manufactured home may be assessable.

Example 7-1

A taxpayer purchased a manufactured home, subject to the Vehicle License Fee (VLF), with interior space of 1,440 square feet. The taxpayer poured a steel reinforced concrete perimeter foundation around the coach. The siding was replaced with stucco. The entire roof was removed and replaced with a medium pitched hip roof with tile covering. A bay window addition was built on the front, and two other additions were built on either side of the manufactured home. The interior was gutted to the studs, the sub-floor was strengthened, and all rough plumbing and wiring was replaced. Insulation was added throughout and the existing walls were replaced with drywall. The existing windows were replaced with dual pane double hung windows. The kitchen received good hardwood cabinets, tile counters and built-in appliances. The rebuilt manufactured home is now 1,744 square feet.

¹⁰³ Section 5825(e).

¹⁰⁴ Section 5801.

¹⁰⁵ Health and Safety Code section 18551.

¹⁰⁶ For a more discussion of manufactured homes, see Assessor Handbook Section 511, *Assessment of Manufactured Homes and Parks*.

The substantial reconstruction of the manufactured home does not fall under the definition of new construction.¹⁰⁷ The key fact is that both before and after the remodeling the manufactured home was subject to the VLF.

However, manufactured home accessories may be real property and alteration or addition of such accessories (or a portion) may constitute assessable new construction. Accessories include, but are not limited to:¹⁰⁸

- Awnings
- Storage cabinets
- Carports
- Skirting
- Heaters
- Coolers
- Fences
- Windbreaks
- Porches

Accessories may be real or personal property but, unless they qualify as household furnishings,¹⁰⁹ they are generally subject to local property taxation, regardless of whether the manufactured home to which they belong is subject to local property taxation.

As an exception, accessories installed on rented or leased land with a manufactured home first sold prior to January 1, 1977, are presumed to be subject to the VLF and not local property tax.¹¹⁰ Prior to 1977, the Department of Motor Vehicles applied the VLF to the entire purchase price of the manufactured home, including the value of any accessories. This presumption may be rebutted by evidence that an accessory was not included in the VLF base for the manufactured home or was not otherwise subject to the VLF. Therefore, to the extent it can be established that the manufactured home accessories constructed in conjunction with the remodeling of the subject property are not included in and subject to the VLF, they would be assessed as new construction subject to local roll assessment.

¹⁰⁷ Section 5825(a).

¹⁰⁸ Health and Safety Code section 18008.5.

¹⁰⁹ Section 3, article XIII of the California Constitution; section 224.

¹¹⁰ Section 5805.

APPENDIX 1: PROPERTY TAX RULES

Title 18, Public Revenues California Code of Regulations

RULE 463. NEWLY CONSTRUCTED PROPERTY

Reference: Article XIII A, Sections 1 and 2, California Constitution.
Section 15606, Government Code.

(a) When real property or a portion thereof, is newly constructed after the 1975 lien date, the assessor shall ascertain the full value of such "newly constructed property" as of the date of completion. This will establish a new base year full value for *only* that portion of the property which is newly constructed, whether it is an addition or alteration. The taxable value on the total property shall be determined by adding the full value of new construction to the taxable value of preexisting property reduced to account for the taxable value of property removed during construction. The full value of new construction is only that value resulting from the new construction and does not include value increases not associated with the new construction.

(b) "Newly constructed" or "new construction" means and includes:

(1) Any substantial addition to land or improvements, including fixtures, such as adding land fill, retaining walls, curbs, gutters or sewers to land or constructing a new building or swimming pool or changing an existing improvement so as to add horizontally or vertically to its square footage or to incorporate an additional fixture, as that term is defined in this section.

(2) Any substantial physical alteration of land which constitutes a major rehabilitation of the land or results in a change in the way the property is used. Examples of alterations to land to be considered new construction are: site development of rural land for the purpose of establishing a residential subdivision; altering rolling, dry grazing land to level irrigated crop land; or preparing a vacant lot for use as a parking facility.

(A) In any instance in which an alteration is substantial enough to require reappraisal, only the value of the alteration shall be added to the base year value of the pre-existing land or improvements. Increases in land value caused by appreciation or a zoning change rather than new construction shall not be enrolled, for example:

1. Land value 1975	= \$10,000
2. Land Value 1978	= \$20,000
3. Value of alteration 1978	= \$ 5,000
4. Value of structure added 1978	= \$75,000
1979 roll value (1+3+4)	= \$90,000 (must be adjusted to reflect appropriate indexing)

(B) Alterations to land which do not constitute a major rehabilitation or which do not result in a change in the way the property is used shall not result in reappraisal.

(3) Any physical alteration of any improvement which converts the improvement or any portion thereof to the substantial equivalent of a new structure or portion thereof or changes the way in which the portion of the structure that had been altered is used, e.g., physical alterations to an old structure to make it the substantial equivalent of a new building without any change in the way it is used or alterations to a warehouse that makes it usable as a retail store or a restaurant. Only the value, not necessarily the cost, of the alteration shall be added to the appropriately indexed base year value of the pre-existing structure.

(4) Excluded from alterations that qualify as "newly constructed" is construction or reconstruction performed for the purpose of normal maintenance and repair, e.g., routine annual preparation of agricultural land or interior or exterior painting, replacement of roof coverings or the addition of aluminum siding to improvements or the replacement of worn machine parts.

(5) Any substantial physical rehabilitation, renovation or modernization of any fixture which converts it to the substantial equivalent of a new fixture or any substitution of a new fixture. Substantial equivalency shall be ascertained by comparing the productive capacity, normally expressed in units per hour, of the rehabilitated fixture to its original productive capacity.

(c) For purposes of this regulation, "fixture" is defined as an improvement whose use or purpose directly applies to or augments the process or function of a trade, industry, or profession.

(d) New construction in progress on the lien date shall be appraised at its full value on such date and each lien date thereafter until the date of completion, at which time the entire portion of property which is newly constructed shall be reappraised at its full value.

(e) For purposes of this regulation, the date of completion is the date the property or portion thereof is available for use. In determining whether the real property or a portion thereof is available for use, consideration shall be given to the date of the final inspection by the appropriate governmental official, or, in the absence of such inspection, the date the prime contractor fulfilled all of his contract obligations, or in the case of fixtures, the date of the completion of testing of machinery and equipment.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.
Amended January 25, 1979, effective March 1, 1979. Applicable to assessments for 1979 and years thereafter.
Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.
Amended February 25, 1998, effective June 12, 1998.

RULE 463.500. DATE OF COMPLETION OF NEW CONSTRUCTION— SUPPLEMENTAL ASSESSMENTS

Reference: Sections 75.10, 75.11, 75.12, Revenue and Taxation Code.

(a) **APPLICATION.** The provisions of this section are applicable only to supplemental assessments levied pursuant to Chapter 3.5 (commencing with Section 75) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

(b) **DATE OF COMPLETION OF NEW CONSTRUCTION.** The date of completion of new construction resulting from actual physical new construction on the site shall be the earliest of either the date upon which the new construction is available for use by the owner or, if all of the conditions of paragraph (b) (1) are satisfied, the date the property is occupied or used by the owner, or with the owner's consent, after the owner has provided a notice in accordance with paragraph (b) (1).

(1) The date of completion of new construction resulting from actual physical new construction shall not be the date upon which it is available for use if the owner does not intend to occupy or use the property and the owner notifies the assessor in writing prior to, or within 30 days after, the date of commencement of construction that he/she/it does not intend to occupy or use the identified property or a specified portion thereof.

(2) The date of completion of new construction resulting from actual physical new construction shall be conclusively presumed to be the date upon which the new construction is available for use by the owner if the assessor fails to receive notice as provided in paragraph (b) (1).

(c) DEFINITIONS.

(1) "Property" means land, improvement(s) including fixtures, and mobilehome(s) subject to taxation under Part 13 (commencing with Section 5800) of Division 1 of the Revenue and Taxation Code.

(2) "New Construction resulting from actual physical new construction" means "new construction" as defined in Section 463, subsections (b) and (f).

"New construction resulting from actual physical new construction" also includes: (A) the installation of a new fixture which is an addition or is a replacement of an existing fixture; (B) the rehabilitation, renovation or modernization of any fixture which converts it to the substantial equivalent of a new fixture; (C) the severance of improvements, including structures and fixtures, which is associated with new construction; (D) the severance on, or after, March 1, 1985, of fixtures which qualify for assessment pursuant to Sections 75.15 and 75.16 of the Revenue and Taxation Code, whether or not the severance is associated with other new construction; or (E) the severance on, or after, July 31, 1985, of structures, whether or not the severance is associated with other new construction.

"New construction resulting from actual physical new construction" does not include: (A) the severance prior to March 1, 1985, of improvements, including structures and fixtures, which is not associated with other new construction; (B) the severance on, or after, March 1, 1985 of any improvements, other than structures or fixtures, which is not associated with other new construction; (C) the severance prior to July 31, 1985, of structures which is not associated with other new construction; or (D) the discontinued use of improvements, including structures and

1 fixtures, which are not physically severed from the property but which are made redundant by newly installed or
 2 erected structures, fixtures, or other improvements.

3 Examples: (A) The installation of a multi-level printing press (a fixture) as an addition to existing facilities constitutes
 4 actual physical new construction.

5 (B) The installation of a printing press as the replacement of an existing press is also actual physical new
 6 construction.

7 (C) The complete renovation of an existing press to the substantial equivalent of a new press constitutes actual
 8 physical new construction.

9 (D) The severance of the old press (also a fixture) is actual physical new construction if it is associated with the
 10 installation of the new press or other new construction, or if it occurred on or after March 1, 1985.

11 (3) "Commencement of construction" means the performance of physical activities on the property which results
 12 in changes which are visible to any person inspecting the site and are recognizable as the initial steps for the
 13 preparation of land or the installation of improvements or fixtures. Such activities include clearing and grading land,
 14 layout of foundations, excavation of foundation footing, fencing the site, or installation of temporary structures. Such
 15 activities also include the severance of existing improvements or fixtures.

16 "Commencement of construction" does not include activities preparatory to actual construction such as obtaining
 17 architect services, preparing plans and specifications, obtaining building permits or zoning variances or filing
 18 subdivision maps or environmental impact reports.

19 "Commencement of construction" shall be determined solely on the basis of activities which occur and are apparent
 20 on the property undergoing new construction. Where several parcels are adjacent and will be used as a single unit by
 21 the builder for the construction project, the commencement of construction shall be determined on the basis of the
 22 activities which occur on any part of the several parcels comprising the unit. Where a property has been subdivided
 23 into separate lots, the commencement of construction shall be determined on the basis of the activities occurring on
 24 each separate lot. Where the property has been subdivided into separate lots and several or all of those lots will be
 25 used as a single unit by the builder for the construction project, the commencement of construction shall be
 26 determined on the basis of the activities which occur on any part of the several parcels comprising the unit.

27 (4) "Available for use" means that the property, or a portion thereof, has been inspected and approved for
 28 occupancy by the appropriate governmental official or, in the absence of such inspection and approval procedures,
 29 when the prime contractor has fulfilled all of the contractual obligations. When inspection and approval procedures
 30 are non-existent or exist but are not utilized and a prime contractor is not involved, the newly constructed property is
 31 available for use when outward appearances clearly indicate it is immediately usable for the purpose intended.
 32 Fixtures are available for use when all testing necessary for proper operation or safety is completed.

33 New construction is not available for use if, on the date it is otherwise available for use, it cannot be functionally used
 34 or occupied. In that case, the property is not available for use until the date that any legal or physical impediment to
 35 functional use or occupancy is removed.

36 If a structure is constructed with the expectation that the tenant(s) will have improvements added after a lease(s) is
 37 executed, "available for use" means that point in time when the structure is ready to receive tenant improvements,
 38 whether or not there are any tenants at that time and regardless of who is to construct the improvements. If a
 39 construction project is completed in stages with some portions available for occupancy prior to completion of the total
 40 project, any portion of the project ready to receive tenant improvements is available for use even though other
 41 portions of the project are not ready for such improvements. In the case of physical alterations to land, such as
 42 leveling, "available for use" means that point in time when the land is ready for use by the owner and no further new
 43 construction is required for the new use. In the case of fixtures added as part of a larger new construction project,
 44 "available for use" means that point in time when the project, including the fixture, is ready for use.

45 (5) "Occupied or used" means the physical occupancy of the property by the owner or any physical use of the
 46 property by the owner, except where such occupancy or use is incidental to an offer for a change of ownership.
 47 "Occupied or used" also includes the rental or lease of the property or any occupancy or use of the property by third
 48 persons with the owner's consent. The occupancy or use of the property occurs on the earliest date when the
 49 property is physically occupied or used, or when the agreed upon term of occupancy commences. "Used" does not
 50 include the transfer of legal title to the property as security.

51 (6) "Functionally used or occupied" means that the property is or can be used or occupied for the purpose for
 52 which it was constructed. The purpose for which the property was constructed or improved shall be determined on
 53 the basis of the type of property and any special facts or circumstances which affect its use or occupancy. Property
 54 shall not be considered "functionally used or occupied" if any legal restriction or physical impediment beyond the
 55 owners' control prevents the use of the property for the purpose intended.

Examples: (A) A building intended for use as a warehouse can be functionally used when physical construction is completed even though the property to be stored has not arrived at the site.

(B) Land improved by leveling and the installation of an irrigation system which converts it from grazing land to farm land can be functionally used when the improvement activity is completed even though the planting season will not commence for several months.

(C) An office or hotel building on which construction is completed cannot be functionally used if it is uninhabitable because of the lack of power, water or sewer service, or if a natural disaster, such as a flood or earth slide, prevents reasonable public access to the facility.

(7) "Owner's consent" means the expressed or implied agreement of an owner to allow the property, or a portion thereof, to be physically occupied or used by a third person. Where the use or occupancy is visible to, or ascertainable by, the assessor, it shall be rebuttably presumed that the property is occupied or used with the owner's consent. If the owner has received actual or constructive notice of the occupancy or use, failure of the owner to communicate an objection to the user or enforce his rights to remove the occupant within a reasonable time shall be evidence of consent.

(8) "Incidental to an offer for a change of ownership" means that an activity is usual or necessary to the holding of property for sale in the regular course of business. It includes any use or occupancy arising from the demonstration or display of the property for the purpose of selling that property or other property in the vicinity under the same ownership. It includes use of the property by the owner or by any person using the property with the owner's consent. Use of property as a model home, a sales office, or as a temporary storage facility for building materials or furnishings intended to be installed in other property to be held for sale, shall be considered to be incidental to an offer for a change in ownership.

Temporary use of the property as lodging by a potential buyer for the purpose of sales promotion shall be considered incidental to an offer for a change of ownership. The use of this property, however, by a potential buyer as a principal residence pending the arrangement or approval of the financing necessary to complete the purchase is not incidental to an offer for a change in ownership.

(9) "Structures" means all improvements subject to supplemental assessment other than living improvements (trees and vines) and fixtures which qualify for assessment pursuant to Sections 75.15 and 75.16 of the Revenue and Taxation Code.

History: Adopted May 28, 1987, effective August 20, 1987.

APPENDIX 2: GLOSSARY OF TERMS

Term	Definition
Active Solar Energy System	A system that uses solar devices, which are thermally isolated from living space or any other area where the energy is used, to provide for the collection, storage, or distribution of solar energy.
Additions	The act of adding implies that there is a pre-existing structure or base to which something is added. Additions are made to land and improvements, including fixtures.
Alteration	The act or process of altering; a modification or change.
Appraisal Unit	The unit that people in the market typically buy and sell or that is normally valued separately.
Assessed Value	The taxable value of a property against which the tax rate is applied.
Assessment	Placing a value on property for the purpose of property taxation.
Agricultural Use	Use of land for the purpose of producing an agricultural commodity for commercial purposes.
Assessment Roll	A listing of all taxable property within a county. It identifies, at a minimum: (1) the property (usually by assessor's parcel number); (2) the tax-rate area where the property is located; (3) the name (if known) and mailing address of the assessee; (4) the assessed value of the property, including separate assessed values for land, improvements, and personal property; (5) penalties (if any); and (6) the amount (if any) of specified exemptions (homeowners', church, welfare,). Distinct assessment rolls include the locally assessed secured and unsecured regular assessment rolls, the locally assessed supplemental assessment roll, and the state assessed roll (which is added to the locally assessed secured roll).
Base Year Value	A property's fair market value as of either the 1975 lien date or the date the property was last purchased, newly constructed, or underwent a change in ownership after the 1975 lien date.
Building Improvements	Improvements to a structure.
Change in Ownership	A transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee interest.

Comparative Sales Approach	An approach to value by reference to sale prices of the subject property or comparable properties; the preferred approach when reliable market data are available.
Commencement of Construction	The performance of physical activities on a property which result in visible changes. These changes should be visible to any person inspecting the site and are recognizable as the initial steps for the preparation of land or the installation of improvements or fixtures.
Cost Approach	A value approach using the following procedures to derive a value indicator: (1) estimate the current cost to reproduce or replace an existing structure without untimely delays; (2) deduct all accrued depreciation; and (3) add the estimated land value and an amount to compensate for entrepreneurial profit (if present).
Depreciation	<p>A decrease in utility resulting in a loss in property value; the difference between estimated replacement or reproduction cost new as of a given date and market value as of the same date. There are three principal categories of depreciation:</p> <p>(1) Physical Deterioration. The loss in utility and value due to some physical deterioration in the property; considered curable if the cost to cure is equal to or less than the value added by curing it.</p> <p>(2) Functional Obsolescence. The loss in utility and value due to changes in the desirability of the property; attributable to changes in tastes and style or the result of a poor original design. Functional obsolescence is curable if the cost to cure is equal to or less than the value added by curing it.</p> <p>(3) External (or Economic) Obsolescence. The loss in utility and value due to an incurable defect caused by external negative influences outside the property itself.</p>
Economic Obsolescence	An element of accrued depreciation; a defect, usually incurable, caused by influences outside the site—sometimes called external obsolescence.
Economic Rent	The amount of rental income that could be expected from a property if available for rent on the open market, as indicated by the prevailing rental rates for comparable properties under similar terms and conditions; economic rent is distinguished from contract rent, which is the actual rental income for the subject property as specified in a lease; economic rent is also referred to as market rent.

Fair Market Value	The amount of cash or its equivalent that property would bring if exposed for sale in an open market under conditions in which neither buyer nor seller take advantage of the exigencies of the other and both with knowledge of all of the uses and purposes to which the property is adapted and for which it is capable of being used, and of the enforceable restrictions upon those uses and purposes.
Full Value	The fair market value, full cash value, or such other value standard as is prescribed by the Constitution or the Revenue and Taxation Code.
Full Value of New Construction	That portion of the increase in the value of a total property upon completion that is attributable directly to the qualifying new construction.
Functional Obsolescence	Curable: an element of accrued depreciation; a curable defect caused by a defect in the structure, materials, or design. Incurable: an element of accrued depreciation; a defect caused by a deficiency or a superadequacy in the structure, materials, or design, which is not financially feasible or practical to correct.
Highest and Best Use	The most profitable use of a property at the time of the appraisal; that available use and program of future use that produces the highest present land value; must be legal, physically possible, financially feasible, and maximally profitable.
Improvements	All buildings, structures, fixtures, and fences erected on or affixed to the land; all fruit, nut bearing, ornamental trees and vines not of natural growth and not exempt from taxation, except date palms under eight years of age.
Income Approach	Any method of converting an income stream or a series of future income payments into an indicator of present value.
Land	Real estate, or real property, except improvements. It includes the possession of, claim to, ownership of, or right to possession of land; and all mines, minerals, and quarries in the land; all standing timber whether or not belonging to the owner of the land; and all rights and privileges appertaining thereto.
Lien Date	All taxable property (both state and locally assessed) is assessed annually for property tax purposes as of 12:01 a.m. on January 1. It is referred to as the lien date because on this date the taxes become a lien against all real property assessed on the secured roll.

Major Rehabilitation	Major rehabilitation is defined as any rehabilitation, renovation, or modernization, which converts an improvement to the substantial equivalent to new.
Modernization	Taking corrective measures to bring a property into conformity with changes in style, whether exterior or interior, or additions necessary to meet standards of current demand. Modernization normally involves replacing part of the structure or mechanical equipment with modern replacements of the same kind. For property tax purposes, modernization implies curing functional obsolescence and physical deterioration to the degree that the structure or fixture is substantially equivalent to new.
New Construction	Any addition to real property, whether land or improvements (including fixtures) since the last lien date; any alteration of land or improvements (including fixtures) since the last lien date that constitutes a major rehabilitation or which converts the property to a different use.
Normal Maintenance	The action of continuing, carrying on, preserving, or retaining something; it is the work of keeping something in proper condition. Maintenance performed on real property is normal when it is regular, standard, and typical. Normal maintenance keeps a property in condition to perform efficiently the service for which it is intended and ensures that a property will experience an economic life of typical duration.
Off-Site Improvements	Improvements that are located outside the subject property (often termed infrastructure) that add value to land. Off-site improvements include such works as transportation systems; sewage, water and drainage systems; and facilities for electric and gas power and telephonic communication.
Personal Property	Personal property includes all property except real property.
Principle of Substitution	A buyer will not pay more for one property than for another that is equally desirable. This principle assumes rational, prudent market behavior with no undue cost due to delay.
Property	Property includes all matters and things—real, personal, and mixed—that are capable of private ownership.
Purchase Price	The amount of money a buyer agrees to pay and a seller agrees to accept in an exchange of property rights; sale price is based on a particular transaction, not necessarily on what the typical buyer would pay or the typical seller would accept.

Real Property	The possession of, claim to, ownership of, or right to the possession of land; all mines, minerals, and quarries in the land; all standing timber whether or not belonging to the owner of the land, and all rights and privileges appertaining thereto; and improvements. The term is synonymous with "real estate."
Rehabilitation	The restoration of a property to satisfactory condition without changing the plan, form, or style of a structure. It involves curing physical deterioration.
Reproduction Cost	The cost to replace an existing property with a replica as of a particular date. Strictly construed, reproduction cost calls for identical materials and quality of workmanship.
Replacement Cost	The cost to replace an existing property with a property of equivalent utility as of a particular date.
Remodeling	Changing the plan, form, or style of a structure to correct functional or economic deficiencies.
Renovation	Making a property into new condition.
Replacement	Substituting an item that is fundamentally the same type or utility for an item that is exhausted, worn out, or inadequate.
Sales Data or Market Method	Measurement of depreciation. When adequate sales data are available, the sales data or market method is the most direct and preferred method of measuring depreciation. This measurement of depreciation is taken from the actions of buyers and sellers in the market. In this method, in the case of real property, the appraiser analyzes a number of sales of improved properties and subtracts the estimated land value for each sale from the selling price. The remainder is the building's contribution to the sale price, which is then compared to the current cost of a new building. The difference is the total depreciation.
Structure	An edifice or building; an improvement whose primary use or purpose is for housing or accommodation of personnel, personalty, or fixtures and has no direct application to the process or function of the industry, trade, or profession.
Supplemental Assessment	An assessment of the full cash value of property as of the date a change in ownership occurs or new construction is completed which establishes a new base year value for the property or for the new construction.

Taxable Possessory Interest

Possessory interests in publicly owned real property. Excluded from the meaning are any possessory interests in real property located within an area to which the United States has exclusive jurisdiction concerning taxation. Such areas are commonly referred to as federal enclaves.

Taxable Value

For real property subject to article XIII A of the California Constitution, the base year value adjusted for any given lien date as required by law or the full cash value (market value) for the same lien date, whichever is less. For personal property, the full cash value for the lien date each year.